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TENNESSEE ADMINISTRATIVE REGISTER



September 15, 2000
Volume 26, Number 9

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RILEY C. DARNELL
Secretary of State

Division of Publications
James K. Polk State Office Building, Suite 1700
Nashville TN 37243 - 0310

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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

PUBLIC NOTICE

LEAD-BASED PAINT ABATEMENT PROGRAM “INTENT TO SEEK STATE AUTHORIZATION FROM EPA”

The purpose of this public notice is to make known that it is the intent of the Commissioner of the Department of Environment and Conservation to seek State Authorization from the Environmental Protection Agency (EPA) to conduct an equivalent Lead-Based Paint Abatement Program in Tennessee in lieu of EPA. This Program will be at least as protective of human health and the environment as the corresponding Federal program.

Rule Chapter 1200-1-18 Lead-Based Paint Abatement, effective September 26, 2000, implements Tennessee Code Annotated (T.C.A.) Section 68-131-401 et seq., Part 4-Tennessee Lead-Based Paint Abatement Certification Act of 1997. After September 26, 2000, the U.S. Environmental Protection Agency (EPA) and the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, will be jointly administering this program in Tennessee until such time that Tennessee acquires state authorization to conduct it in lieu of EPA.

The Rule outlines procedures and requirements for accreditation of training programs, certification of professionals, and work practice standards for conducting lead-based paint abatement activities. The purpose is to ensure that individuals are properly trained and certified to conduct lead-based paint (LBP) activities in target housing and child-occupied facilities, using reliable, effective and safe work practice standards. Training programs are accredited to ensure that proper training is provided to LBP professionals regarding their being knowledgeable of and adhering to required standards. The regulations establish fees for testing, certification, accreditation, etc. and penalties for non-compliance. A 15-day Notification to the State is required prior to the commencement of target housing abatement projects.

Written comments regarding the Commissioner's intent to seek authorization or to request a public hearing, stating specific reasons for such a request, should be submitted to:

Mr. Kenneth Bakari
Division of Solid Waste Management
Tennessee Department of Environment and Conservation
5th Floor, L & C Tower
401 Church Street
Nashville, Tennessee 37243-1535

Such written comments or requests for a public hearing must be received by 4:30 p.m. CDT, October 17, 2000 in order to assure consideration. Public Notice of such public hearing will be given in the

Tennessee Administrative Register (TAR) should such hearing be deemed justified by the Commissioner. For additional information regarding the Program or this Notice, please call toll free: 1-888-771-LEAD.

The notice set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-37)

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 October, 2000 is 9.71 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 5.71 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 August 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	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-01	Aug 24, 2000	0540 Bd of Electrolysis Examiners	Rulemaking Hearing Rules	New Rules	<i>Chapter 0540-1</i> <i>General Rules Governing Electrology, Electrologists, and Electrology Instructors</i> 0540-1-.22 Consumer Right-To-Know Requirements	John Fitzgerald OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 7, 2000
08-02	Aug 24, 2000	1200 Health Bd for Licensing Health Care Facilities	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-8-29</i> <i>Standards for Home Care Organizations</i> <i>Providing Home Medical Equipment</i> 1200-8-29-.01 Definitions 1200-8-29-.02 Licensing Procedures 1200-8-29-.03 Disciplinary Procedures 1200-8-29-.04 Administration 1200-8-29-.05 Admissions, Discharge and Transfers 1200-8-29-.06 Basic Agency Functions 1200-8-29-.07 Reserved 1200-8-29-.08 Reserved 1200-8-29-.09 Reserved 1200-8-29-.10 Infectious and Hazardous Waste 1200-8-29-.11 Records and Reports 1200-8-29-.12 Patient Rights 1200-8-29-.13 Procedures for the Withholding of Resuscitative Services 1200-8-29-.14 Disaster Preparedness	Robbie Bell OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 7, 2000
08-03	Aug 24, 2000	0620 Dept of Finance and Administration Division of Accounts	Proposed Rules	Repeal	<i>Chapter 0620-1-9</i> <i>Policy and Procedure Governing the Write-Off of Accounts Receivable</i>	Jack Hill 312 8 th Ave N 15 th fl Snodgrass-TN Twr (615) 532-9612	Dec 29, 2000
08-04	Aug 24, 2000	1730 Bd of Veterinary Medical Examiners	Rulemaking Hearing Rules	Amendments	<i>Chapter 1730-1</i> <i>General Rules Governing Veterinarians</i> 1730-1-.15 Disciplinary Actions and Civil Penalties Chapter 1730-1-.19 Bd Members, Officers, Consultants, Records, and Declaratory Orders <i>Chapter 1730-2</i> <i>General Rules Governing Veterinary Facilities</i> 1730-2-.15 Disciplinary Actions and Civil Penalties <i>Chapter 1730-3</i> <i>General Rules Governing Veterinary Medical Technicians</i> 1730-3-.15 Disciplinary Actions and Civil Penalties	Rachel Nelley OGC 26 th Fl Snodgrass TN Twr 312 8 th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 7, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-04, cont.					1730-3-19 Bd Members, Officers, Consultants, Records, and Declaratory Orders Chapter Chapter 1730-4 General Rules Governing Certified Animal Control Agencies 1730-4-12 Disciplinary Actions and Civil Penalties Chapter 1730-5 General Rules Governing Certified Animal Euthanasia Technicians 1730-5-09 Bd Consultants, Records and Complaints, and Declaratory Orders 1730-5-12 Disciplinary Actions and Civil Penalties		
08-05	Aug 24, 2000	1200 Dept of Health Bureau of Health Services Nutrition Services Section	Rulemaking Hearing Rules	Repeal and new chapter	Chapter 1200-15-2 Special Supplemental Nutrition Program For Women, Infants and Children 1200-15-2-01 Definitions 1200-15-2-06 Participant Abuse Purpose 1200-15-2-02 Purpose 1200-15-2-07 Merchant Contracts Eligibility 1200-15-2-03 Merchant Abuse 1200-15-2-04 Issuance of Vouchers 1200-15-2-09 Non-Discrimination 1200-15-2-05 Voucher Redemption	Jerrold R. Daniels Dept of Health Cordell Hull Bldg, 3 rd Fl 425 Fifth Ave, N Nashville, TN 37247 615-741-3111	Nov 7, 2000
08-06	Aug 25, 2000	0800 Bd Of Medical Examiners	Rulemaking Hearing Rules	Amendments	Chapter 0880-2 General Rules And Regulations Governing The Practice Of Medicine 0880-2-02 Fees 0880-2-08 Examination	Robert J. Kraemer, Jr., OGC Dept of Health, 26 th Fl Snodgrass TN Twr 312 8 th Ave N Nashville, TN 37247-0120 (615) 741-1611	Nov 8, 2000
08-07	Aug 25, 2000	0400 Dept of Environment and Conservation Division of Water Pollution Control	Rulemaking Hearing Rules	Amendments	Chapter 1200-4-7 Rules of the Water Quality Control Bd 1200-4-7-01 General 1206-4-7-02 Exemptions 1200-4-7-03 Definitions 1200-4-7-04 Permits	Alan Leiserson OGC TN Twns 312 8 th Ave N Nashville TN 37243-1548 (615) 532-0125	Nov 8, 2000
08-08	Aug 29, 2000	1180 Bd of Examiners in Psychology	Rulemaking Hearing Rules	Amendments	Chapter 1180-1 General Rules Governing the Practice of Psychologists and Psychological Examiners 1180-1-01 Definitions	John Fitzgerald OGC 312 8th Ave N Nashville, TN 37247-0120	Nov 12, 2000

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-08, cont.					1180-1-02 Necessity of Licensure 1180-1-03 Fees 1180-1-05 Renewal of License 1180-1-07 Retirement and Reactivation of License Chapter 1180-2 Rules Governing Psychologists 1180-2-02 Qualifications for Licensure 1180-2-03 Procedures for Licensure 1180-2-05 Temporary License 1180-2-06 Provisional License		
08-11	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Austin Peay State University	Proposed Rules	Amendments	Chapter 0240-3-1 Student Disciplinary Rules 0240-3-1-01 Institution Policy Statement 0240-3-1-02 Disciplinary Offenses 0240-3-1-03 Academic and Classroom Misconduct 0240-3-1-04 Disciplinary Sanctions 0240-3-1-05 Disciplinary Procedure 0240-3-1-06 Involuntary Withdrawal or Temporary Suspension Due to Severe Psychological Disturbance	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-12	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN University of Memphis	Proposed Rules	Amendments	Chapter 0240-3-3 Student Disciplinary Rules 0240-3-3-09 Traffic and Parking Regulations 0240-3-3-10 Motor Vehicle Registration and Parking	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-13	Aug 28, 2000	0240 Bd of Regents State University and	Proposed Rules	Amendments	Chapter 0240-3-4 Student Disciplinary Rules 0240-3-4-04 Disciplinary Procedures 0240-3-4-05 Guidelines for Social Activities 0240-3-4-06 Traffic and Parking Regulations	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-13, cont.		Community College System of TN Middle TN State University			0240-3-4-07 Registration of Motor Vehicles <i>Chapter 0240-4-4 Student Housing Rules</i> 0240-4-4-03 Residence Hall Conduct and Disciplinary Sanctions	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-14	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Technological University	Proposed Rules	Amendments	<i>Chapter 0240-3-6 Student Disciplinary Rules</i> 0240-3-6-05 Disciplinary Procedures 0240-3-6-06 Academic Misconduct <i>Chapter 0240-4-6 Student Housing Rules</i> 0240-4-6-01 Eligibility 0240-4-6-02 Residence Hall Conduct and Disciplinary Sanctions 0240-4-6-03 Resident Responsibilities 0240-4-6-04 Disciplinary Procedures 0240-4-6-04 Visitation Policy 0240-4-6-05 Contract Term and Conditions 0240-4-6-06 Reservations (Deposit, Cancellation and Refund Policies)	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-15	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Cleveland State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-8 Student Disciplinary Rules</i> 0240-3-8-06 Traffic and Parking Regulations	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-16	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Dyersburg State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-10 Student Disciplinary Rules</i> 0240-3-10-02 Disciplinary Offenses 0240-3-10-04 Disciplinary Sanctions 0240-3-10-05 Disciplinary Procedures 0240-3-10-06 Traffic and Parking Regulations	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000

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08-17	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Shelby State Community College	Proposed Rules	Repeal and New Chapter	Chapter 0240-3-14 Student Disciplinary Rules 0240-3-14-.01 College Policy Statement 0240-3-14-.02 Disciplinary Offenses 0240-3-14-.03 Classroom Misconduct 0240-3-14-.04 Disciplinary Procedures 0240-3-14-.05 Disciplinary Sanctions 0240-3-14-.06 Traffic and Parking Regulations	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-18	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Walters State Community College	Proposed Rules	Amendments	Chapter 0240-3-16 Student Disciplinary Rules 0240-3-16-.03 Academic and Classroom Misconduct 0240-3-16-.06 Traffic and Parking Regulations 0240-3-16-.07 Motor Vehicles Registration	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-19	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Pellissippi State Technical Community College	Proposed Rules	Amendments	Chapter 0240-3-18 Student Disciplinary Rules 0240-3-18-.04 Disciplinary Sanctions 0240-3-18-.05 Disciplinary Procedures 0240-3-18-.06 Traffic and Parking Regulations 0240-3-18-.08 Registration of Vehicles	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-20	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN State Technical Institute at Memphis	Proposed Rules	Repeal	Chapter 0240-3-19 Student Disciplinary Rules	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000

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08-21	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN Neast State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-20 Student Disciplinary Rules</i> 0240-3-20-06 Traffic and Parking Regulations	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-22	Aug 28, 2000	0240 Bd of Regents State University and Community College System of TN TN State University	Proposed Rules	Amendments	<i>Chapter 0240-4-5 Student Housing Rules</i> 0240-4-5-01 Eligibility	James C. Floyd 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	Dec 29, 2000
08-23	Aug 23, 2000	1200 Dept of Health Bureau of Health Services Administration Division of General Environmental Health	Rulemaking Hearing Rules	New Rules	Chapter 1200-23-1 Food Service Establishment 1200-23-1-01 Definitions 1200-23-1-02 Food Sanitation 1200-23-1-03 Establishment Permitting and Inspection System 1200-23-1-04 Fees 1200-23-1-05 Loss of Permit Document 1200-23-1-06 General Provisions	Richard A. Johnson, Director Division of General Environmental Health 6th Fl Cordell Hull Bldg Nashville, TN (615) 741-7206	Nov 7, 2000
08-24	Aug 29, 2000	1180 Bd of Examiners in Psychology	Rulemaking Hearing Rules	Repeal and New Rules New Rules	Chapter 1180-1 General Rules Governing the Practice of Psychologists and Psychological Examiners Chapter 1180-2 Rules Governing Psychologists Chapter 1180-3 Rules Governing Psychological Examiners	Robbie Bell, Deputy General Counsel, Office of General Counsel, 26 th Fl, William R. Snodgrass TN Twr, 312 Eighth Ave N, Nashville, TN 37243, (615) 741-1611	Nov 12, 2000
08-25	Aug 31, 2000	0400 Dept of Environment and Conservation Division of Water Pollution Control	Proposed Rules	Proposed Rules	<i>Chapter 1200-4-10 National Pollutant Discharge Elimination System General Permits</i> 1200-4-10-04 General NPDES Permit for Storm Water Discharges Associated with Industrial Activity 1200-4-10-05 General NPDES Permit for Storm Water Discharges Associated with Construction	Mr. Philip M. Simmons Division of Water Pollution Control 6 th Fl L & C Annex 401 Church Street Nashville, TN 37243-1534 (615) 532-0358 psimmons@mail.state.TN.us	Dec 29, 2000

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIP-TION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-25, cont.					Activity 1200-4-10-.06 General NPDES Permit for Discharges of Filter Backwash and Sedimentation Basin 1200-4-10-.07 General NPDES Permit for Discharges of Hydrostatic Test Water		
08-27	Aug 31, 2000	1640 TN Student Assistance Corporation	Proposed Rules	Amendment	Chapter 1640-1-13 Minority Teaching Fellows Program 1640-1-13-.05 Loan Amount and Terms	Ron Gambill Executive Director TN Student Assistance Corp. Suite 1950, Parkway Twrs 404 James Robertson Pkway Nashville, TN 37243-0820 (615) 741-1346	Dec 29, 2000
08-31	Aug 31, 2000	1200 Dept of Health Bureau of Health Services Administration	Proposed Rules	Repeal	Chapter 1200-1-9 Trailer Courts	Jerrold R. Daniels Cordell Hull Bldg Third Fl 425 Fifth Ave, N Nashville, TN 37247-0101 615-741-3111	Dec 29, 2000
08-32	Aug 31, 2000	0080 Dept of Agriculture Division of Regulatory Services	Proposed Rules	New Rules Amendments Repeal	Chapter 0080-5-12 Kerosene & Motor Fuels Quality Inspection Act Notice of Rulemaking 0080-5-12-.08 Test Methods and Reproducibility Limits 0080-5-12-.09 Sampling of Petroleum Products 0080-5-12-.10 Disposition of Sample Retains 0080-5-12-.01 Definitions 0080-5-12-.02 Standard Specifications 0080-5-12-.03 Classification and Method of Sale of Petroleum Products 0080-5-12-.04 Storage Tanks 0080-5-12-.05 Product Storage Identification 0080-5-12-.06 Condemned Product 0080-5-12-.07 Product Registration	Patricia Clark, General Counsel Dept of Agriculture P. O. Box 406627 Nashville, TN 37204 615-837-5093	Dec 29, 2000
08-39	Aug 31, 2000	1200 Dept of Health Division of Health Related Bds	Proposed Rules	Amendments	Chapter 1200-10-1 General Rules and Regulations 1200-10-1-.01 General Definitions 1200-10-1-.10 Licensee Renewal Applications	Robbie Bell OGC 26 th Fl Snodgrass TN Twr 312 8 th Ave N Nashville, TN 37247-0120 615-741-1611	Dec 29, 2000

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-44	Aug 31, 2000	0880 Bd of Medical Examiners	Rulemaking Hearing Rules	New Rules Amendments	Chapter 0880-5 <i>General Rules and Regulations Governing the Utilization of X-Ray Operators in Physicians' Offices</i> 0880-5-.11 Bone Densitometry. 0880-5-.01 Definitions 0880-5-.03 Certification Requirement 0880-5-.04 Qualifications for Full and Limited 0880-5-.05 Certification Educational Course, Approval and Curriculum for Limited 0880-5-.06 Examination for Certification 0880-5-.08 Maintaining Certification, Renewal, Retirement and Reinstatement 0880-5-.09 Continuing Education 0880-5-.10 Scope of Practice	Robert J. Kraemer, Jr., OGC 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Nov 14, 2000
08-46	Aug 31, 2000	1700 Treasury Dept Division of Unclaimed Property	Proposed Rules	New Rules Amendments	Chapter 1700-2-1 <i>Regulations Governing the Uniform Disposition of Unclaimed Property Act</i> 1700-2-1-.37 Reports of Safe Deposit Box Contents 1700-2-1-.04 Reporting Forms 1700-2-1-.05 Alternative Reporting Forms Accepted by the State Treasurer 1700-2-1-.06 Submission of Reports to State Treasurer 1700-2-1-.18 Reports of Miscellaneous Property Held for Another Person 1700-2-1-.20 Delivery of Property to the State Treasurer	Mary Krause, General Counsel 10th Fl, Andrew Jackson Bldg Nashville, TN 37243-0230 (615) 741-7063	Dec 29, 2000
08-48	Aug 22, 2000	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	New Rule	Chapter 1660-1-27 1660-1-27-.06 John Sevier Hunter Education Center	Sheryl Holtam, Staff Attorney TN Wildlife Resources Agency P. O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 29, 2000

HEALTH FACILITIES COMMISSION - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE**

Applications will be heard at the October 25, 2000 Health Facilities Commission Meeting except as otherwise noted.

**Denotes applications being placed on the Consent Calendar.*

+Denotes applications under simultaneous review.

This is to provide official notification that the Certificate of Need applications listed below have begun their official 90-day review cycle effective August 1, 2000. The review cycle includes a 60-day period of review by the Division of Assessment and Planning within the Tennessee Department of Health or the Department of Mental Health and Mental Retardation. During this 60-day period, the Department of Health may hold a public hearing, if requested, with respect to each application and will conclude the period with a written report. Pursuant to Public Chapter 120, Acts of 1993, certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a 60-day review cycle, including a 30-day period of review by the Department of Health, Division of Assessment and Planning or the Department of Mental Health and Mental Retardation. Applications intended to be considered on the consent calendar, if any, are denoted by an asterisk.

Pursuant to T.C.A., Section 68-11-108(h)(1) effective April 5, 2000, any health care institution wishing to oppose a Certificate of Need must file a written objection with the Tennessee Health Facilities Commission and serve a copy on the contact person no later than fifteen (15) days before the regularly scheduled Tennessee Health Facilities Commission meeting at which the application will be heard.

For more information concerning each application or its review cycle, you may contact the Tennessee Department of Health/ Division of Assessment & Planning (615/741-0244), their designee, or the Health Facilities Commission (615/741-2364).

NAME AND ADDRESS

DESCRIPTION

Mahogany Hospice Care, Inc.
Pontotoc Place
17 West Pontotoc Avenue
Memphis (Shelby Co.), TN 38103-3814
Tony Suggs – (877)—325-5830
CN0005-038

The establishment of a hospice agency to serve the following seven counties: Shelby, Tipton, Fayette, Hardeman, Haywood, Lauderdale, and Madison Counties. The applicant will serve terminally ill patients diagnosed with a six month life expectancy, with emphasis placed upon care provided to individuals diagnosed with End Stage Aids or other terminal illnesses in African-American and other disadvantaged communities. The parent office will be located at Pontotoc Place, 17 West Pontotoc Avenue in Memphis (Shelby County), Tennessee.
\$ 58,208.56

NAME AND ADDRESS

DESCRIPTION

Morristown-Hamblen Hospital
 908 West Fourth North Street
 Morristown (Hamblen Co.), TN 37814
 Carol Wolfenbarger – (423)—586-4231
 CN0006-045

The acquisition of a linear accelerator and the initiation of radiation therapy services at the Morristown – Hamblen Hospital located at 908 West Fourth North Street in Morristown, Tennessee. The housing of the linear accelerator will require approximately 1,470 square feet and approximately 4,839 of clinical space will be required for the radiation therapy services.

\$ 4,893,878

*Blount Memorial Hospital, Inc.
 Home Services Division
 1095 East Lamar Alexander Parkway
 Maryville (Blount Co.), TN 37804
 Karen Moore – (865)—977-5531
 CN0007-055

The relocation of the home office of the Blount Memorial Hospital, Inc. home care organization from Sevier County to Blount County. The Sevier County office will be closed. The clients now served by the Sevier County office will be served by the staff of the current Townsend branch office. The home office will be located at 1095 East Lamar Alexander Parkway in Maryville, Tennessee. The service area consists of the following Tennessee counties: Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Knox, Loudon, Monroe, Roane, Sevier, Union, Unicoi, and Washington.

\$ 603,500

The Surgery Center of Athens
 305 North Meadows Drive
 Athens (McMinn Co.), TN 37303
 Jeffery Wallace – (423)—745-7600
 CN0007-056

The establishment of an ambulatory surgical treatment center for general, multi-specialty outpatient surgery procedures. The facility will be located at 305 North Meadows Drive in Athens, (McMinn County) Tennessee. The proposed 6,800 square foot facility will contain two (2) operating rooms.

\$ 2,400,000

Care Solutions, Inc.
 345 24th Avenue North, Suite 102
 Nashville (Davidson Co.), TN 37203
 Chris Powers – (615)—329-2299
 CN0007-057

The establishment of a home care agency limited to the provision of skilled nursing services to individuals requiring infusion therapy. The facility will be located at 345 24th Avenue North, Suite 102 in Nashville (Davidson County), Tennessee. The service area will consist of the following counties: Bedford, Benton, Cannon, Carroll, Cheatham, Clay, Coffee, Davidson, Decatur, DeKalb, Dickson, Franklin, Giles, Grundy, Henry, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Putnam, Robertson, Rutherford, Sequatchie, Smith, Stewart, Sumner, Trousdale, Van Buren, Warren, Wayne, White, Williamson, and Wilson Counties.

\$ 21,950

NAME AND ADDRESS

DESCRIPTION

Open MRI of Mt. Juliet, LLC
 1097 Weston Drive, Unit 4
 Mt. Juliet (Wilson Co.), TN 37122
 Graham Baker – (615)—383-3332
 CN0007-058

The establishment of an outpatient diagnostic treatment center, acquisition of a magnetic resonance imaging unit, and initiation of MRI services at 1097 Weston Drive, Unit 4, Mt. Juliet, Tennessee.
 \$ 2,516,992

Wellmont Washington County Hospital
 920 N. State of Franklin Road
 Johnson City (Washington Co.), TN 37604
 John Wellborn – (615)—269-0070
 CN0007-059

The establishment of a 65-bed hospital in Johnson City, Tennessee and to simultaneously delicense 100-beds at Wellmont Health System hospitals (90-beds at Holston Valley Medical Center in Kingsport, Tennessee and 10-beds at Bristol Regional Medical in Bristol, Tennessee). This project also includes initiation of mobile MRI services three (3) days a week and the initiation of Cardiac Catheterization services.
 \$ 55,988,000

BioImaging, Inc.
 Lot 1, Harding Mall Village
 Nashville (Davidson Co.), TN 37211
 Graham Baker – (615)—383-3332
 CN0007-061

The relocation of an outpatient diagnostic treatment center and of a magnetic resonance imaging unit, and for the initiation of MRI services at Lot 1, Harding Mall Village, Nashville (Davidson County), Tennessee. The outpatient diagnostic treatment center and the existing MRI is located at 344 Wallace Road in Nashville, Tennessee and the relocation is required because the applicant has lost their lease and must be relocated to continue business.
 \$ 2,208,042

Mid Delta Health Systems, Inc.
 4127 Cohasset
 Memphis (Shelby Co.), TN 38125
 Graham Baker – (615)—383-3332
 CN0007-062

The establishment of a home care organization and the initiation of home health and hospice services to the following eight (8) county service area: Dyer, Fayette, Hardeman, Haywood, Lauderdale, Madison, Shelby, and Tipton Counties. The parent office will be located at 4127 Cohasset, in Memphis (Shelby County), Tennessee.
 \$ 50,000

BioImaging, Inc. Lot 1,
 Harding Mall Village
 Nashville (Davidson Co.), TN 37211
 Graham Baker – (615)—383-3332
 CN0007-063

The acquisition of a second magnetic resonance imaging unit. The MRI unit is a Hitachi Airis 0.3T open permanent magnet system. This MRI unit is currently located at 344 Wallace Road in Nashville, Tennessee.
 \$ 1,387,226

NAME AND ADDRESS	DESCRIPTION
*Regional Nuclear Pharmaceuticals of Memphis, LLC 1388 Madison Avenue Memphis (Shelby Co.), TN 38104-2327 William West – (615)—259-1450 CN0007-064	The acquisition of a cyclotron and related equipment to be located at 1388 Madison Avenue, Memphis, Shelby County, Tennessee. \$ 3,502,533.
Campbell Surgery Clinic, LLC Property located between Brierbrook Road and Wolf River Boulevard Germantown (Shelby Co.), TN 38138 William West – (615)—259-1450 CN0007-065	The establishment of an ambulatory surgical treatment center to be located on property between Brierbrook Road and Wolf River Boulevard in Germantown, Shelby County, Tennessee. \$ 4,656,120
Memphis Center for Research and Addiction Treatment 1270 Madison Avenue Memphis (Shelby Co.), TN 38104 Jerry Taylor – (615)—726-1200 CN0007-066	The establishment of a non-residential methadone treatment facility. The facility will be located at 1270 Madison Avenue in Memphis (Shelby County), Tennessee. The proposed service area will consist of the following Tennessee counties: Shelby, Fayette, Tipton, Lauderdale, and Dyer. \$ 530,100
Hillview Health Center, Inc. 1666 Hillview Drive Elizabethton (Carter Co.), TN 37643 Jerry Taylor – (615)—726-1200 CN0007-067	Increase the number of licensed nursing home beds from 56 to 66 by the addition of ten (10) dually certified skilled nursing home beds. The project will also include the addition of 6,066 square feet of new space to accommodate the additional beds as well as some additional administrative space. \$ 600,000

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

(For the text of the Emergency rules see issue of T.A.R. cited)

- 0080 - Department of Agriculture - Division of Animal Industries - 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, chapter 0080-2-1 Health Requirements for Admission and Transportation of Livestock and Poultry, 6 T.A.R. (June 2000) - filed May 21, 2000; effective through November 12, 2000. (05-31)
- 0080 - Department of Agriculture - Division of Forestry - Emergency rules to address the immediate concern that substantial and long-term damage is being inflicted upon Tennessee's State Forests by the excessive and indiscriminate use of off-road vehicles, chapter 0080-7-1 General, 8 T.A.R. (August 2000) - filed July 25, 2000; effective through January 6, 2000. (07-04)
- 0520 - Department of Education - Emergency rules providing for alternative licensure for teachers under an Interim E License. chapter 0520-2-4 Licensure, 6 T.A.R. (June 2000) - Filed May 15, 2000; effective through October 28, 2000. (05-08)

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PROPOSED RULES

DEPARTMENT OF AGRICULTURE - 0080 DIVISION OF REGULATORY SERVICES

CHAPTER 0080-5-12 KEROSENE & MOTOR FUELS QUALITY INSPECTION ACT NOTICE OF RULEMAKING

Presented herein are the proposed new rules and amendments of the Tennessee Department of Agriculture pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Agriculture 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 petitions to be effective must be filed in the Publications Division of the Department of State, 813 Eighth Avenue North, 8th Floor, Snodgrass Tower, Nashville, TN 37219-0310, 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 a standing committee of the General Assembly.

PROPOSED NEW RULES

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0080-5-12-.08 Test Methods and Reproducibility Limits
0080-5-12-.09 Sampling of Petroleum Products
0080-5-12-.10 Disposition of Sample Retains

0080-5-12-.08 TEST METHODS AND REPRODUCIBILITY LIMITS

- (1) ASTM Standard Test Methods referenced for use within the applicable Standard Specification shall be used to determine the specification values for enforcement purposes. When no ASTM methods exist, accepted industry test methods specified in rule shall be used to determine compliance.
- (2) Premium Diesel - The following test methods shall be used to determine compliance with the applicable premium diesel parameters:
 - (a) Energy Content - ASTM D 240;
 - (b) Cetane Number - ASTM D 613;
 - (c) Low Temperature Operability - ASTM D 4539 or ASTM D 2500 (according to marketing claim);
 - (d) Thermal Stability – ASTM D6468 (180 minutes, 150 °C [302 °F]);

- (e) Fuel Injector Cleanliness - The most recent edition of the Cummins L-10 Injector Depositing Test as endorsed by the ASTM L-10 Injector Depositing Test Surveillance Panel, or the resulting ASTM Test Method as derived from the Cummins L-10 Injector Depositing Test.
- (3) Reproducibility Limits:
- (a) "AKI Limits," when determining the antiknock index (AKI) acceptance or rejection of a gasoline sample, the AKI reproducibility limits as outlined in ASTM D 4814 Appendix X1 shall be routinely acknowledged for enforcement purposes. However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.
 - (b) "Tests Other Than AKI" the reproducibility limits of the ASTM or other accepted standard test method used for each test performed shall be acknowledged for enforcement purposes, except as indicated in 0080-5-12-.08 (3)(a). However, if recurrent values are determined at or near the reproducibility limit from a single marketer, the Commissioner may take necessary enforcement actions to correct the condition.

Authority: T.C.A. §§47-18-1309.

0080-5-12-.09 SAMPLING OF PETROLEUM PRODUCTS

- (1) Samples of petroleum products collected for testing shall be pumped, pulled, drawn, or otherwise procured in accordance with any of the following standard procedures:
 - (a) ASTM D 4057, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products;"
 - (b) 40 CFR Part 80, Appendix D or subsequent US EPA sampling instructions;
 - (c) ASTM D 5842, "Standard Practice for Sampling and Handling of Fuels for Volatility Measurement;"
 - (d) NCWM Publication 21, "Petroleum Products Sampling Procedures and Safety Manual."

Authority: T.C.A. §§47-18-1309.

0080-5-12-.10 DISPOSITION OF SAMPLE RETAINS

- (1) All unused portions of samples remaining after testing shall be disposed of by use in official state vehicles. The state or contract laboratory shall be responsible for storing and dispensing product to authorized vehicles. A log of all product transfers shall be maintained by the state or contract laboratory.

Authority: T.C.A. §§47-18-1309.

AMENDMENTS

Rule 0080-5-12-.01 Definitions is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.01 DEFINITIONS

- (1) "ASTM" (The American Society for Testing and Materials) means the national scientific and technical organization formed for the development of standards on characteristics and performance of materials, products, systems, and services and the promotion of related knowledge.
- (2) "Antiknock Index (AKI)" means the arithmetic average of the Research octane number (RON) and Motor octane number (MON): $AKI = (RON+MON)/2$. This value is called by a variety of names, in addition to antiknock index, including: Octane rating, Posted octane, $(R+M)/2$ octane.
- (3) "Automotive Fuel Rating" means the automotive fuel rating required under the amended Octane Certification and Posting Rule (or as amended, the Fuel Rating Rule), 16 CFR Part 306. Under this Rule, sellers of liquid automotive fuels, including alternative fuels, must determine, certify, and post an appropriate automotive fuel rating. The automotive fuel rating for gasoline is the antiknock index (octane rating). The automotive fuel rating for alternative liquid fuels consists of the common name of the fuel along with a disclosure of the amount, expressed as a minimum percentage by volume, of the principal component of the fuel. For alternative liquid automotive fuels, a disclosure of other components, expressed as a minimum percentage by volume, may be included, if desired.
- (4) "Automotive Gasoline, Automotive Gasoline-Oxygenate Blend" means a type of fuel suitable for use in spark-ignition automobile engines and also commonly used in marine and non-automotive applications.
- (5) "Aviation Gasoline" means a type of gasoline suitable for use as a fuel in an aviation spark-ignition internal combustion engine.
- (6) "Aviation Turbine Fuel" means a refined middle distillate suitable for use as a fuel in an aviation gas turbine internal combustion engine.
- (7) "Base Gasoline" means all components other than ethanol in a blend of gasoline and ethanol.
- (8) "Cetane Number" means a numerical measure of the ignition performance of a diesel fuel obtained by comparing it to reference fuels in a standardized engine test.
- (9) "Commissioner" means the Commissioner of the Tennessee Department of Agriculture or a departmental employee designated by the Commissioner to act as his representative for purposes of these rules.
- (10) "Department" means the Tennessee Department of Agriculture.
- (11) "Diesel Fuel" means refined oils commonly used in internal combustion engines where ignition occurs by pressure and not by electric spark, the classification of which shall be defined by the American Society for Testing and Materials.
- (12) "E85 Fuel Ethanol" means a blend of ethanol and hydrocarbons of which the ethanol portion is nominally 85 to 75 volume percent denatured fuel ethanol.
- (13) "Energy Content" means the gross energy content or the heating value of diesel fuel as defined by its heat of combustion - the heat released when a known quantity of fuel is burned completely under specific conditions as determined by ASTM Standard Test Method D 240.

- (14) "Engine Fuel" means any liquid or gaseous matter used for the generation of power in an internal combustion engine.
- (15) "EPA" means the United States Environmental Protection Agency.
- (16) "Ethanol" also known as Denatured Fuel Ethanol, means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. The denatured fuel ethanol is first made unfit for drinking by the addition of Bureau of Alcohol, Tobacco, and Firearms (BATF) approved substances before blending with gasoline.
- (17) "Fuel Injector Cleanliness" means a characteristic of the fuel which allows engine operation without fuel contribution to excessive injector deposits.
- (18) "Fuel Oil" means a refined oil middle distillates, heavy distillates, or residues of refining, or blends of these, suitable for use as a fuel for heating or power generation, the classification of which shall be defined by ASTM D 396.
- (19) "Gasoline" means a volatile mixture of liquid hydrocarbons generally containing small amounts of additives suitable for use as a fuel in a spark-ignition internal combustion engine.
- (20) "Gasoline-Oxygenate Blend" means a fuel consisting primarily of gasoline along with a substantial amount (more than 0.35 mass percent oxygen, or more than 0.15 mass percent oxygen if methanol is the oxygenate) of one or more oxygenates.
- (21) "Kerosene (or Kerosine)" means a refined oil intended for heating or illuminating use, the classification of which shall be defined by the American Society of Testing and Materials.
- (22) "Lead Substitute" means an EPA-registered gasoline additive suitable, when added in small amounts to fuel, to reduce or prevent exhaust valve recession (or seat wear) in automotive spark-ignition internal combustion engines designed to operate on leaded fuel.
- (23) "Lead Substitute Engine Fuel" means, for labeling purposes, a gasoline or gasoline-oxygenate blend that contains a "lead substitute."
- (24) "Leaded" means, for labeling purposes, any gasoline or gasoline-oxygenate blend which contains more than 0.013 gram lead per liter (0.05 g lead per U.S. gal). NOTE: EPA defines leaded fuel as one which contains more than 0.0013 gram phosphorus per liter (0.005 g per U.S. gal), or any fuel to which lead or phosphorus is intentionally added.
- (25) "Liquefied Petroleum Gas (LPG)" means a mixture of normally gaseous hydrocarbons, predominantly propane, that has been liquefied by compression or cooling, or both to facilitate storage, transport, and handling for use as a motor fuel, the classification of which shall be defined by the American Society of Testing and Materials.
- (26) "Low Sulfur" means low sulfur diesel fuel that meets ASTM D 975 (e.g., Grade Low Sulfur No. 1-D or Grade Low Sulfur No. 2-D) standards. Diesel fuel containing higher amounts of sulfur for off-road use is defined by EPA regulations.
- (27) "Low Temperature Operability" means a condition which allows the uninterrupted operation of a diesel engine through the continuous flow of fuel throughout its fuel delivery system at low temperatures. Fuels with adequate low temperature operability characteristics have the ability to avoid wax precipitation and clogging in fuel filters.

- (28) "M85 Fuel Methanol" means a blend of methanol and hydrocarbons of which the methanol portion is nominally 70 to 85 volume percent.
- (29) "Motor Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2700 Motor Method engine test.
- (30) "Oxygen Content of Gasoline" means the percentage of oxygen by mass contained in a gasoline.
- (31) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which can be used as a fuel or fuel supplement.
- (32) "Racing Gasoline" means a specialty product similar in nature to automotive gasoline except that it is typically of lower volatility, has a narrower boiling range, a higher antiknock index, and is generally free of significant amounts of oxygenates. It is designed for use in vehicles with high compression engines, generally for racing purposes.
- (33) "Person" means an individual, partnership, corporation, company, firm, association, or other business entity.
- (34) "Research Octane Number" means a numerical indication of a spark-ignition engine fuel's resistance to knock obtained by comparison with reference fuels in a standardized ASTM D 2699 Research Method engine test.
- (35) "Substantially Similar" means the EPA's "Substantially Similar" rule, Section 211 (f) (1) of the Clean Air Act [42 U.S.C. 7545 (f) (1)].
- (36) "Thermal Stability" means the ability of a fuel to resist the thermal stress which is experienced by the fuel when exposed to high temperatures in a fuel delivery system. Such stress can lead to formation of insoluble gums or organic particulates. Insolubles can clog fuel filters and contribute to injector deposits.
- (37) "Total Oxygenate" means the aggregate total in volume percent of all oxygenates contained in any fuel defined in this Chapter.
- (38) "Unleaded" in conjunction with "engine fuel" or "gasoline" means any gasoline or gasoline-oxygenate blend to which no lead or phosphorus compounds have been intentionally added and which contains not more than 0.013 gram lead per liter (0.05 g lead per U.S. gal) and not more than 0.0013 gram phosphorus per liter (0.005 g phosphorus per U.S. gal).
- (39) "Wholesale Purchaser Consumer" means any person who is an ultimate consumer of gasoline, fuel methanol, fuel ethanol, diesel fuel, biodiesel, fuel oil, kerosene, aviation turbine fuels, natural gas, compressed natural gas, or liquefied petroleum gas who purchases or obtains the product from a supplier and receives delivery of that product into a storage tank.

Authority: T.C.A. §§47-18-1309.

Rule 0080-5-12-.02 Standard Specifications is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.02 STANDARD FUEL SPECIFICATIONS

- (1) Gasoline and Gasoline-Oxygenate Blends shall meet the following requirements:

- (a) The most recent version of ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," as published in the Annual Book of ASTM Standards except that volatility standards for unleaded gasoline blended with ethanol shall not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency (which includes rules promulgated by the State).
 - (b) Blends of gasoline and ethanol shall not exceed the ASTM D 4814 vapor pressure standard by more than 6.9 kPa (1.0 psi). The distillation minimum temperature at the 50 volume percent evaporated point shall not be less than 70 °C (158 °F) for vapor pressure/distillation Class AA, A, B and C fuels and 66 °C (150 °F) for Class D and E fuels.
 - (c) "Minimum Antiknock Index (AKI)" the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation;
 - (d) "Minimum Motor Octane Number" the minimum motor octane number shall not be less than 82 for gasoline with an AKI of 87 or greater;
 - (e) "Minimum Lead Content to Be Termed (Leaded)" gasoline and gasoline-oxygenate blends sold as "leaded" shall contain a minimum of 0.013 gram of lead per liter (0.05 g per U.S. gal);
 - (f) "Lead Substitute Gasoline" gasoline and gasoline-oxygenate blends sold as "lead substitute" gasoline shall contain a lead substitute which provides protection against exhaust valve seat recession equivalent to at least 0.026 gram of lead per liter (0.10 g per U.S. gal).
 - 1. "Documentation of Exhaust Valve Seat Protection" upon the request of the Commissioner, the lead substitute additive manufacturer shall provide documentation to the Commissioner that demonstrates that the treatment level recommended by the additive manufacturer provides protection against exhaust valve seat recession equivalent to or better than 0.026 gram per liter (0.1 g/gal) lead. The Commissioner may review the documentation and approve the lead substitute additive before such additive is blended into gasoline. This documentation shall consist of:
 - (i) Test results as published in the Federal Register by the EPA Administrator as required in Section 211(f)(2) of the Clean Air Act, or;
 - (ii) Until such a time as the EPA Administrator develops and publishes a test procedure to determine the additive's effectiveness in reducing valve seat wear, test results and description of the test procedures used in comparing the effectiveness of 0.026 gram per liter lead and the recommended treatment level of the lead substitute additive shall be provided.
 - (g) "Blending," Leaded, lead substitute, and unleaded gasoline-oxygenate blends shall be blended according to the EPA "substantially similar" rule or an EPA waiver for unleaded fuel.
- (2) Diesel Fuel shall meet the most recent version of ASTM D 975, "Standard Specification for Diesel Fuel Oils."
- (a) Premium Diesel Fuel - All products identified on retail dispensers, bills of lading, invoices, shipping papers, or other documentation such as premium, super, supreme, plus, or premier must conform to at least two of the following requirements:

1. Energy Content - A minimum energy content of 38.65 MJ/L, gross (138,700 BTU/gallon, gross) as measured by ASTM Standard Test Method D 240.
 2. Cetane Number - A minimum cetane number of 47.0 as determined by ASTM Standard Test Method D 613.
 3. Low Temperature Operability - A cold flow performance measurement which meets the ASTM D 975 tenth percentile minimum ambient air temperature charts and maps by either ASTM Standard Test Method D 2500 (Cloud Point) or ASTM Standard Test Method D 4539 (Low Temperature Flow Test, LTFT). Low temperature operability is only applicable October 1 - March 31 of each year.
 4. Thermal Stability - A minimum reflectance measurement of 80 percent as determined by ASTM Standard Test Method D6468 (180 minutes, 150°C[302°F]).
 5. Fuel Injector Cleanliness - A CRC rating of 10.0 or less and a flow loss of 6.0 percent or less as determined by the Cummins L-10 Injector Depositing Test or the resulting ASTM Test Method as derived from the Cummins L-10 Injection Depositing Test.
- (b) When a fuel utilizes a detergent additive to meet the requirement, upon the request of the Commissioner, the marketer shall provide test data indicating the additive being used has passed the Cummins L-10 Injector Depositing Test requirements when combined with Caterpillar 1-K (CAT 1-K) reference fuel. The Commissioner may also request records or otherwise audit the amount of additive being used to ensure proper treatment of fuels according to the additive manufacturers' recommended treat rates.
1. Upon the request of the Commissioner, the fuel marketer shall provide an official "Certificate of Analysis" of the physical properties of the additive.
 2. Upon the request of the Commissioner, the fuel supplier shall provide a sample of detergent additive in an amount sufficient to be tested with CAT 1-K reference fuel in a Cummins L-10 Injector Depositing Test.
 3. When a fuel marketer relies on the inherent cleanliness of the diesel fuel to pass the Cummins L-10 Injector Depositing Test or if the fuel requires a lower detergent additive level than the amount required when the additive is used with the CAT 1-K reference fuel, the fuel marketer shall provide, upon the request of the Commissioner, annual test results from an independent laboratory that confirms the fuel meets the requirements of (3)(e). The time of fuel sampling and testing shall be at the discretion of the Commissioner. The Commissioner may witness the sampling of the fuel and the sealing of the sample container(s) with security seals. The Commissioner may request confirmation from the testing laboratory that the seals were intact upon receipt by the laboratory. The final test results shall be provided to the Commissioner. All costs for sampling, transporting, and testing shall be the responsibility of the fuel supplier.
- (3) Aviation Turbine Fuels shall meet the most recent version of ASTM D 1655, "Standard Specification for Aviation Turbine Fuels."
 - (4) Aviation Gasoline shall meet the most recent version of ASTM D 910, "Standard Specification for Aviation Gasoline."
 - (5) Fuel Oils shall meet the most recent version of ASTM D 396, "Standard Specification for Fuel Oils."
 - (6) Kerosene (Kerosine) shall meet the most recent version of ASTM D 3699, "Standard Specification for Kerosine."

- (7) Ethanol intended for blending with gasoline shall meet the most recent version of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel."
- (8) Liquefied Petroleum (LP) Gases Intended for Use as Motor Fuel shall meet ASTM D 1835, "Standard Specification for Liquefied Petroleum (LP) Gases."
- (9) E85 Fuel Ethanol shall meet the most recent version of ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines."
- (10) M85 Fuel Methanol shall meet the most recent version of ASTM D 5797, "Standard Specification for Fuel Methanol M70-M85 for Automotive Spark Ignition Engines."
- (11) Racing Gasoline shall meet the following requirement:
 - (a) "Minimum Antiknock Index (AKI)" the AKI shall not be less than the AKI posted on the product dispenser or as certified on the invoice, bill of lading, shipping paper, or other documentation.

Authority: T.C.A. §47-18-1309.

Rule 0080-5-12-.03 Classification and Method of Sale of Petroleum Products is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.03 CLASSIFICATION AND METHOD OF SALE OF PETROLEUM PRODUCTS

- (1) General Considerations
 - (a) "Documentation," when gasoline; gasoline-oxygenate blends; reformulated gasoline; M85 and M100 fuel methanol; E85 and E100 fuel ethanol; liquefied petroleum (LP) gases intended for use as a motor fuel; compressed natural gas; liquefied natural gas; biodiesel; diesel fuel; kerosene; aviation gasoline; aviation turbine fuels; racing gasoline; or, fuel oils are sold, an invoice, bill of lading, shipping paper or other documentation, must accompany each delivery other than a retail sale. This document must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, and oxygenate type and content (if applicable as determined by 0080-5-12-.03 (2)(h)), the name and address of the seller and buyer, and the date and time of the sale. Documentation must be retained at the retail establishment for a period not less than 30 days.
 - (b) "Retail Dispenser Labeling," all retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable automotive fuel rating.
 - (c) "Grade Name," the sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating or ASTM grade shall not be permitted unless the automotive fuel rating or grade indicated in the grade name is consistent with the value and meets the requirements of 0080-5-12-.02, Standard Fuel Specifications.
 - (d) Each retail dispenser must be identified by a number, other than or in addition to a serial number, permanently affixed to the dispenser.
- (2) Automotive Gasoline and Automotive Gasoline-Oxygenate Blends

- (a) "Posting of Antiknock Index Required," all dispensing devices of automotive gasoline and automotive gasoline-oxygenate blends shall post the antiknock index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (b) "When the Term (Leaded) May be Used," the term "leaded" shall only be used when the fuel meets specification requirements of 0080-5-12-.02 (e).
- (c) "Use of Lead Substitute Must Be Disclosed," each dispensing device from which gasoline or gasoline oxygenate blend containing a lead substitute is dispensed shall display the following legend: "Contains Lead Substitute." The lettering of this legend shall not be less than 12 millimeters (1/2 in) in height and the color of the lettering shall be in definite contrast to the background color to which it is applied.
- (d) "Nozzle Requirements for Leaded Fuel," each dispensing device from which gasoline or gasoline-oxygenate blends that contains lead in amounts sufficient to be considered "leaded" gasoline, or lead substitute engine fuel, is sold shall be equipped with a nozzle spout having a terminal end with an outside diameter of not less than 23.63 millimeters (0.930 in).
- (e) "Prohibition of Terms," it is prohibited to use the following terms to describe a grade of gasoline or gasoline-oxygenate blend unless it meets the following minimum antiknock index requirement:
 - 1. Premium, Super, Supreme, High Test, Premier, Ultra, Ultimate must be a minimum of 91 AKI;
 - 2. Midgrade, Plus, Extra, or other approved terms, must be a minimum of 89 AKI;
 - 3. Regular Leaded, must be a minimum of 89 AKI;
 - 4. Regular, Unleaded must be a minimum of 87 AKI.
- (f) The use of any other term not listed above in (2)(e) to describe a grade of gasoline must be approved by the Commissioner.
- (g) "Method of Retail Sale-Type of Oxygenate Must be Disclosed," all automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold, at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. For example, the label may read "contains ethanol" or "with MTBE." The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers" or alternatively post the phrase "contains MTBE or other ethers." In addition, gasoline-methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This information shall be posted on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in) in height, 1.5 mm (1/16 in) stroke (width of type).
- (h) "Documentation for Dispenser Labeling Purposes," the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify either the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen) or, alternatively, use the phrase "contains MTBE or other ethers." In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is

the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending.

(3) Diesel Fuel

- (a) "Labeling of Grade Requirements," Diesel Fuel shall be identified by grades No. 1-D, No. 1-D (low sulfur), No. 2-D, No. 2-D (low sulfur), or No. 4-D. For grades other than No. 2-D Low Sulfur, each retail dispenser of diesel fuel shall be labeled according to the grade being dispensed except the words "low sulfur" are not required.
- (b) "Location of Label," these labels shall be located on the upper 50 percent of the dispenser front panel in a position clear and conspicuous from the driver's position, in a type at least 12 millimeter (1/2 in) in height, 1.5 millimeter (1/16 in) stroke (width of type).
- (c) "Labeling Properties of Premium Diesel," all retail dispensers identified as premium diesel must display either:
 1. A label that includes all qualifying parameters as specified in 0080-5-12-.02 (3) Premium Diesel Fuel affixed to each retail dispenser. The label shall include a series of check blocks clearly associated with each parameter. The boxes for the parameters qualifying the fuel as premium diesel must be checked. All other boxes shall remain unchecked. A marketer may check as many blocks as apply, or;
 2. A label that includes only the parameters selected by a marketer to meet the premium diesel requirements as specified in 0080-5-12-.02 (2) (a) Premium Diesel Fuel. In either case, the label must display the following words:
 - (i) "Premium Diesel Fuel" in a type at least 12 millimeters (1/2 inch) in height by 1.4 millimeters (1/16 inch) stroke (width of type).
 3. When applicable, as determined by the label option and qualifying parameters chosen by the marketer, the label must also display the following information and letter type size:
 - (i) The words "High Energy Content," "Cetane Number," "Low Temperature Operability," "Thermal Stability," and "Fuel Injector Cleanliness" in a type at least 6 millimeters (1/4 inch) in height by 0.75 millimeter (1/32 inch) stroke (width of type).
 - (ii) A declaration of minimum energy content (min. 38.65 MJ/L gross [138,700 BTU/gallon]), if energy content is chosen as a qualifying parameter, in type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) stroke (width of type).
 - (iii) The minimum cetane number guaranteed (at least 47.0) if cetane number is chosen as a qualifying parameter, in a type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) stroke (width of type).
 - (iv) The date range of low temperature operability enhancement, (e.g., October - March), along with the qualifying test method (ASTM D 4539 or ASTM D 2500), if low temperature operability is chosen as a qualifying parameter, in a type at least 3 millimeters (1/8 inch) in height by 0.4 millimeter (1/64 inch) stroke (width of type).
 - (v) The label must be conspicuously displayed on the upper-half of the product dispenser front panel in a position that is clear and conspicuous from the driver's position.

For example:

PREMIUM DIESEL FUEL	
For example:	
High Energy Content	<input type="checkbox"/>
Cetane Number, 47.0 min.	<input type="checkbox"/>
Low Temperature Operability, (Oct.-Mar., LTFT)	<input type="checkbox"/>
Thermal Stability	<input type="checkbox"/>
Fuel Injector Cleanliness	<input type="checkbox"/>

Premium Diesel Fuel
Cetane Number, 47.0 min.
Thermal Stability
Low Temperature Operability, (Oct.-Mar. LTFT)

- (d) Delivery Documentation - before or at the time of delivery of premium diesel fuel, the retailer or the wholesale purchaser-consumer shall be provided, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all performance properties that qualifies the fuel as premium diesel fuel as required in 0080-5-12-.02 (3).

- (4) Aviation Turbine Fuel
 - (a) "How to Identify Aviation Turbine Fuels," aviation turbine fuels shall be identified by Jet A, Jet A-1, or Jet B.
 - (b) "Labeling of Grade Required," each dispenser or airport fuel truck dispensing aviation turbine fuels shall be labeled conspicuously as to identify the product being sold as classified above.

- (5) Aviation Gasoline
 - (a) "How to Identify Aviation Gasoline," aviation gasoline shall be identified by Grade 80, Grade 100, or Grade 100LL.
 - (b) "Labeling of Grade Required," each dispenser or airport fuel truck dispensing aviation gasoline shall be labeled conspicuously as to identify the product being sold as classified above.

- (6) Fuel Oils
 - (a) "How to Identify Fuel Oils," fuel oil shall be identified by the grades of No. 1, No. 2, No. 4 (Light), No. 4, No. 5 (Light), No. 5 (Heavy), or No. 6.
 - (b) "Labeling of Grade Required," each retail dispenser or delivery truck dispensing fuel oil shall be labeled conspicuously as to identify the product being sold as classified above.

(7) Kerosene (Kerosine)

- (a) "How to Identify Kerosene," kerosene shall be identified by the grades No. 1-K or No. 2-K.
- (b) "Labeling Requirements," each retail dispenser of kerosene shall be labeled as 1-K Kerosene or 2-K. In addition, No. 2-K dispensers shall display the following legend:
 - 1. "Warning - Not Suitable For Use In Unvented Heaters Requiring No. 1-K." The lettering of this legend shall not be less than 12 millimeters (1/2 in) in height by 1.5 millimeters (1/16 in) strokes; block style letters and the color of lettering shall be in definite contrast to the background color to which it is applied.

(8) Fuel Ethanol

- (a) "How to Identify Fuel Ethanol," fuel ethanol shall be identified by the capital letter E followed by the numerical value volume percentage. (Example: E85)
- (b) "Retail Dispenser Labeling," each retail dispenser of fuel ethanol shall be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol)
- (c) "Additional Labeling Requirements," fuel ethanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(9) Fuel Methanol

- (a) "How Fuel Methanol is to be Identified," fuel methanol shall be identified by the capital letter M followed by the numerical value volume percentage of methanol. (Example: M85)
- (b) "Retail Dispenser Labeling," each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value volume percent and ending with the word "methanol." (Example: M85 Methanol)
- (c) "Additional Labeling Requirements," fuel methanol shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(6) Liquefied Petroleum (LP) Gas

- (a) "How LPG is to Be Identified," liquefied petroleum gases intended for use as a motor fuel shall be identified by grades Commercial Propane or Special-Duty Propane (HD5).
- (b) "Retail Dispenser Labeling," each retail dispenser of liquefied petroleum gases intended for use as a motor fuel shall be labeled as "Commercial Propane" or "Special-Duty Propane (HD5)."
- (c) "Additional Labeling Requirements," liquefied Petroleum Gas intended for use as a motor fuel shall be labeled with its automotive fuel rating in accordance with 16 CFR Part 306.

(11) Racing Gasoline

- (a) "Posting of Antiknock Index Required" all dispensing devices of racing gasoline shall post the Anti-knock Index in accordance with applicable regulations, 16 CFR Part 306 issued pursuant to the Petroleum Marketing Practices Act, as amended.
- (b) "Method of Retail Sale-Type of Oxygenate Must be Disclosed" all racing gasoline kept, offered, or exposed for sale, or sold, at retail containing at least 0.15 mass percent oxygen shall be identified by a label that lists all oxygenates contained in the fuel. The information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height and 1.5 mm (1/6") stroke (width of type).
- (c) "Documentation for Dispenser Labeling Purposes" the retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of all oxygenates present in concentration sufficient to yield an oxygenate content of at least 0.15 mass percent in the fuel. This documentation is for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygenate content of the engine fuel before blending.

Authority: T.C.A. §§47-18-1309. *Adm. History:* Originally filed April 6, 1990; effective May 21, 1990.

Rule 0080-5-12-.04 Water in Retail Tanks is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.04 STORAGE TANKS

- (1) "Water in Retail Storage Tanks containing Gasoline-Alcohol Blends, Aviation Gas, and Aviation Turbine Fuel," no water phase greater than 6 millimeters (1/4 in) as determined by an appropriate detection paste, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, aviation gasoline, and aviation turbine fuel.
- (2) "Water in Retail Storage Tanks Containing Gasoline, Diesel, and Other Fuels," water shall not exceed 50 millimeters (2 in) in depth when measured with water indicating paste in any tank utilized in the storage of diesel, gasoline, gasoline-ether blends, fuel oils, and kerosene sold at retail.

Authority: T.C.A. §§47-18-1309.

Rule 0080-5-12-.05 Product Storage Identification is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.05 PRODUCT STORAGE IDENTIFICATION

- (1) "Fill Connection Labeling," the fill connection for any petroleum product storage tank or vessel supplying engine-fuel devices shall be permanently, plainly, and visibly marked as to the product contained by means of :
 - (a) A permanently attached tag or label and;
 - (b) American Petroleum Institute color codes as specified and published in "API Recommended Practice 1637".

- (2) "Volume of Product Information," each retail location shall maintain on file a calibration chart or other means of determining the volume of each regulated product in each storage tank and the total capacity of such storage tank(s). This information shall be supplied immediately to the inspector upon request.

Authority: T.C.A. §§47-18-1309.

Rule 0080-5-12-.06 Condemned Product is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

0080-5-12-.06 CONDEMNED PRODUCT

- (1) "Stop Sale Order," a stop sale order may be issued as a Class One stop sale order or a Class Two stop sale order. When a stop sale order is placed on a terminal or bulk storage plant, the terminal or bulk storage plant operators shall immediately notify all customers that received those product(s) and make any arrangements necessary to replace or adjust to specifications those product(s). A list of all parties contacted by the supplier must be provided to the Commissioner. A release from a stop sale order will be awarded only after final disposition has been agreed upon by the Commissioner. Confirmation of disposition of products shall be made available in writing to the Commissioner.

Authority: T.C.A. §§47-18-1309. *Adm. History:* Originally filed April 6, 1990; effective May 21, 1990.

REPEALS

Rule 0080-5-12-.07 Product Registration is repealed.

Authority: T.C.A. §§47-18-1309.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August 2000, and pursuant to the instructions set out above, and in the absence of the filing of a petition calling for a rulemaking hearing, will become effective on the 28th day of December, 2000. (08-32)

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

**CHAPTER 1200-4-10
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
GENERAL PERMITS**

Presented herein is the proposed repeal of Rules 1200-4-10-.04 through .07 of Rule Chapter 1200-4-10, National Pollutant Discharge Elimination System General Permits, of the Tennessee Department of Environment and Conservation submitted pursuant to Tennessee Code Annotated (T.C.A.) § 4-5-202 in lieu of a rulemaking hearing. These rules are titled as follows:

- 1200-4-10-.04 General NPDES Permit for Storm Water Discharges Associated with Industrial Activity
- 1200-4-10-.05 General NPDES Permit for Storm Water Discharges Associated with Construction Activity
- 1200-4-10-.06 General NPDES Permit for Discharges of Filter Backwash and Sedimentation Basin Washwater from Water Treatment Plants
- 1200-4-10-.07 General NPDES Permit for Discharges of Hydrostatic Test Water

It is the intent of the Department to promulgate these rules pursuant to T.C.A. § 69-3-105(b) and the Uniform Administrative Procedures Act, T.C.A. § 4-5-101 et seq. without a rulemaking hearing unless a petition requesting such a hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed repeal is published. Such petition to be effective must be filed in the Tennessee Division of Water Pollution Control, 6th Floor L & C Annex located at 401 Church Street, Nashville, Tennessee 37243-1534 and in the Department of State, 8th Floor, William R. Snodgrass Building, 312 8th Avenue, North, Nashville, TN 37243-0305, 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 the text of this proposed repeal contact: Mr. Philip M. Simmons, Tennessee Department of Environment and Conservation, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534, and (615) 532-0358.

REPEALS

Rules 1200-4-10-.04 through .07 are hereby repealed in their entirety.

Authority: Tennessee Code Annotated (T.C.A.) § 69-3-105(h).

The Proposed Rules set out herein were properly filed in the Department of State on the 31st day of August, 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 29th day of December, 2000. (08-25)

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

CHAPTER 0620-1-9

POLICY AND PROCEDURE GOVERNING THE WRITE-OFF OF ACCOUNTS RECEIVABLE

Presented herein are proposed repeals of the Department of Finance and Administration submitted pursuant to T.C.A. §4—5—202 in lieu of a rulemaking hearing. It is the intent of the Department of Finance and Administration to promulgate these repeals 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 repeals are published. Such petition to be effective must be filed on the 15th floor of the Snodgrass-Tennessee Tower located 312 8th Avenue N, Nashville, Tennessee and in the Department of State, Eighth Floor, 812 Eighth Avenue North, Snodgrass Tower, Nashville, Tennessee 37219-0310, 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.

REPEAL

Rule 0620-1-9 Policy and Procedure Governing the Write-Off of Accounts Receivable is repealed.

For a copy of this proposed repeal, contact: Jack Hill, 312 8th Avenue North, 15th floor Snodgrass-Tennessee Tower, Nashville, Tennessee 37243, Department of Finance and Administration, and (615) 532-9612.

Authority: T.C.A. Section 4-4-120.

The proposed repeal set out herein was properly filed in the Department of State on the 24th day of August, 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 29th day of December, 2000. (08-03)

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

**CHAPTER 1200-1-9
TRAILER COURTS**

Presented herein is a proposed rules repeal by the Department of Health submitted pursuant to T.C.A. 4-5-202 in lieu of a rulemaking hearing. It is the intent of the department to repeal 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 repeal is published. Such petition to be effective must be filed on the fourth floor of the Cordell Hull Building located at 425 Fifth Avenue, North, Nashville, Tennessee 37243 and in the Department of State, 813 Eighth Avenue North, 8th Floor, Snodgrass Tower, Nashville, TN 37219-0310, and must be signed by twenty-five (25) persons who will be affected by the repeal of the rules, or submitted by a municipality which will be affected by the repeal of the rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

REPEALS.

Rules 1200-1-9 are repealed (the entire chapter).

Authority: Tennessee Code Annotated 4-5-202 and 68-1-103.

The proposed rule repeal set out herein was properly filed in the Department of State on the 31st day of August, 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 29th day of December, 2000. (08-31)

**DEPARTMENT OF HEALTH - 1200
CHAPTER 1200-10-1
GENERAL RULES AND REGULATIONS**

Presented herein are proposed amendments of the Department of Health, Division of Health Related Boards submitted pursuant to Tennessee Code Annotated, Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Health, Division of Health Related Boards, 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 in the office of the Division of Health Related Boards on the First Floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, Tennessee 37247-1010 and in the Department of State, 813 Eighth Avenue North, 8th Floor, Snodgrass Tower, Nashville, TN 37219-0310, 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: Jerry Kosten, Regulations Manager, Division of Health Related Boards, First Floor - Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

The text of the proposed amendments is as follows:

AMENDMENTS

Paragraph (3) of Rule 1200-10-1-.01, General Definitions, is amended by adding the following language as appropriately numbered subparagraphs and is further amended by relocating subparagraph (w) to the alphabetically appropriate location:

- () Council of Certified Professional Midwifery
- () Council for Licensing Hearing Instrument Specialists
- () Tennessee Advisory Committee for Acupuncture.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, 63-1-132, 63-17-201, and Public Chapters 576 and 685 of the Public Acts of 2000.*

Rule 1200-10-1-.10, Licensee Renewal Applications, is amended by adding the following introductory language and is further amended by deleting paragraph (2) in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (3), so that as amended, the new introductory language, and the new paragraphs (2) and (3) shall read:

1200-10-1-.10 LICENSEE RENEWAL APPLICATIONS. The Division, with the Commissioner of Health's approval, establishes a system of license renewal at alternative intervals which will allow for the distribution of the license workload as uniformly as is practicable throughout the calendar year. All authorizations to practice must be renewed pursuant to the Division's alternative renewal system.

- (2) No renewal application will be accepted after the last day of the month following the licensee's expiration date under the alternative method authorized in this rule. All licenses not timely renewed shall be subject to administrative revocation.
- (3) Notwithstanding any Board, Council, or Committee rule to the contrary, the Division establishes an electronic renewal procedure whereby licensees may apply via the Internet to request renewal of their authorization to practice their profession. The application to renew an authorization to practice a profession can be accessed at:

www.state.tn.us/health/

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-107, and 63-1-132.*

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 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 29th day of December, 2000. (08-39)

THE TENNESSEE BOARD OF REGENTS - 0240
STATE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF TENNESSEE

Presented herein are proposed amendments of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated, § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents 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 in Suite 350 of the Genesco Park building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Eighth Floor, 812 Eighth Avenue North, Snodgrass Tower, Nashville, TN 37219-0310, 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 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: Mary Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4438.

The text of the proposed amendments is as follows:

AUSTIN PEAY STATE UNIVERSITY
CHAPTER 0240-3-1
STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (2) of rule 0240-3-1-.01 Institution Policy Statement is amended by deleting the word “violence” and substituting instead the word “violation” so that as amended paragraph (2) shall read:

- (2) Pursuant to this authorization, the University has developed the following Regulations, which are intended to govern student conduct on campus. In addition, students are subject to all national, state, and local laws and ordinances. If a student’s violation of such laws or ordinances also adversely affects the institution’s pursuit of its educational objectives, the institution may enforce its own regulations regardless of a proceeding instituted by other authorities. Conversely, violation of any section of these Regulations may subject a student to disciplinary measures by the institution whether or not such conduct is simultaneously violative of state, local, or national laws.

Authority: *T.C.A. §49-8-203.*

Paragraph (1) of rule 0240-3-1-.02 Disciplinary Offenses is amended by deleting the word “it” and substituting instead the word “its” so that as amended paragraph (1) shall read:

- (1) Generally, through appropriate due process procedures, institutional disciplinary measures shall be imposed for conduct which adversely affects the institution’s pursuit of its educational objectives, which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on institution or institution controlled properly.

Subparagraph (d) of paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by adding a new part 4. New part 4. shall read:

4. Any form of disruptive behavior in the classroom.

Subparagraph (h) of paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by adding the words “paint guns” so that as amended subparagraph (h) shall read:

- (h) Firearms and other dangerous weapons. Any possession of or use of firearms or dangerous weapons of any kind on University property. Firearms or dangerous weapons include, but are not limited to: rifles, handguns, BB guns, stun guns, knives, martial arts equipment, bows and arrows, paint guns, etc., or other objects with the potential to cause bodily harm.

Subparagraph (j) of paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by deleting the word “Then” and substituting instead the word “The” so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages. The use and/or possession of alcoholic beverages and/or public intoxication on University owned or controlled property, or a violation of any terms of the Austin Peay State University Drug-Free Policy Statement;

Subparagraph (q) of paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (q) shall read:

- (q) Attempts and aiding and abetting the commission of offenses. Any attempt to commit any of the offenses listed in this document, or the aiding and abetting of the commission of any of the offenses (an “attempt” to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission);

Paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by adding a new subparagraph (x). New subparagraph (x) shall read:

- (x) Pets. With the exception of “service animals,” as defined by the Office of Disability Services, and the exception of animals used for academic research purposes, pets are prohibited on campus.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-1-.03 Academic and Classroom Misconduct is amended by deleting the paragraph in its entirety and substituting instead the following language so that as amended paragraph (1) shall read:

- (1) The instructor has the primary responsibility for control over classroom behavior and maintenance of academic integrity, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct, excessive absences from the class, as defined in the printed syllabus for the course, or conduct violative of the general rules and regulations of the institution. Extended or permanent exclusion from the classroom or further disciplinary action can be effected only through appropriate procedures of the institution.

Authority: T.C.A. §49-8-203.

Subparagraph (d) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is amended by adding to the subparagraph the sentence “Parents may be notified.” so that as amended subparagraph (d) shall read:

- (d) University probation. Continued enrollment of a student on probation may be conditioned upon adherence to these regulations. Any student placed on probation will be notified of such in writing and will also be notified of the terms and length of the probation. Probation may include restriction upon the extracurricular activities of a student. Parents may be notified. Any conduct in violation of these regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.

Subparagraph (e) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by adding to the subparagraph the sentence "Parents may be notified." so that as amended subparagraph (e) shall read:

- (e) Suspension. If a student is suspended, he or she is separated from the University or from a class for a stated period of time with conditions for readmission and the notice of suspension. Parents may be notified.

Subparagraph (f) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by adding to the subparagraph the sentence "Parents may be notified." so that as amended subparagraph (f) shall read:

- (f) Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's readmission to the institution. Parents may be notified.

Subparagraph (g) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by deleting the subparagraph in its entirety and substituting instead the following so that as amended subparagraph (g) shall read:

- (g) Interim or Summary Suspension. Though as a general rule, the status of a student accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him, summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the institution community or its guest, destruction of property, or substantial disruption of classroom or other campus activities. A final determination of the charges against any student summarily suspended shall be made through appropriate hearing procedures within ten (10) class days of such suspension during which time the accused shall forfeit all rights and privileges as a student of the University. Parents may be notified.

Subparagraph (h) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by adding to subparagraph the sentence "Parents may be notified." so that as amended subparagraph (h) shall read:

- (h) Housing Probation. A resident placed on housing probation is deemed not to be in good standing with the housing community, and his/her continued residence is conditioned upon adherence to these Regulations and the Housing Contract. Any resident placed on probation shall be notified in writing of the terms and length of the probation. Parents may be notified. Any conduct of a similar or more serious nature in violation of the probation shall result in suspension from housing.

Subparagraph (i) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by adding to the subparagraph the sentence "Parents may be notified." so that as amended subparagraph (i) shall read:

- (i) Housing Suspension and Forfeiture. A resident suspended from housing may not reside, visit, or make any use whatsoever of a housing facility or participate in any housing activity during the period for which the sanction is in effect. A suspended resident shall be required to forfeit housing fees (including any unused portion thereof and the Housing Deposit). A suspended resident must vacate the housing unit within forty-eight (48) hours. Housing suspension shall remain a part of the student's disciplinary record. Parents may be notified.

Subparagraph (l) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by deleting the subparagraph in its entirety and substituting instead the following so that as amended subparagraph (l) shall read:

- (l) **Interim or Summary Suspension from Campus Housing.** Though as a general rule, the status of a student accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him, interim suspension from campus housing may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused in Austin Peay State housing constitutes an immediate threat to the physical safety and well being of the accused, or of any other member of the institution community or its guests, or the destruction of property. A final determination of the charges against any student summarily suspended from the campus housing shall be made through appropriate hearing procedures within seven (7) class days of such housing suspension during which time the accused shall forfeit the right to reside in or visit campus housing facilities. The accused shall be permitted to attend classes during this interim period. Parents may be notified.

Subparagraph (m) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by deleting the word “require” and adding the word “required” so that as amended subparagraph (m) shall read:

- (m) **Referral for Intervention, assessment and/or Counseling.** The student is mandated to visit the appropriate University official for an initial intervention and assessment which may be followed by required participation and a prescribed plan of action or treatment plan.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (1) of rule 0240-3-1-.05 is amended by adding “,” in the second sentence so that as amended subparagraph (a) shall read:

- (a) Procedures conforming to the Tennessee Uniform Administrative Procedures Act. All cases which may result in (i) suspension or expulsion of a student from the institution, a program, or a course for disciplinary reasons, (ii) the assignment of a grade which results in the grade of “F” in the course for academic misconduct, or (iii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA) and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents, unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with the Institutional Hearing Procedures.

Subparagraph (b) of paragraph (1) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the word “alternated” and adding the word “alternate” so that as amended subparagraph (b) shall read:

- (b) Cases which are not subject to the contested case procedures under the Tennessee Uniform Administrative Procedures Act and cases in which a student has waived the contested case procedures in writing shall be processed in accordance with Institutional Hearing Procedures. The University has established two (2) alternate Institutional Hearing Procedures:

Subparagraph (c) of paragraph (1) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the word “conduction” and adding the word “conducting” so that as amended subparagraph (c) shall read:

- (c) Cases which are not subject to the contested case procedures under the Tennessee Uniform Administrative Procedures Act and which involve very minor first offenses by students may be discussed informally with students. In such cases, no formal record will be maintained in the judicial records of the University. The University official responsible for conducting this Informal disciplinary discussion shall note the name of the student involved in his/her personal records. The purpose of this notation is only to determine a student’s prior involvement in a minor offense, when and if a second offense occurs at a later date. If the student is subsequently involved in another violation of regulations, this informal Record will become a part of the student’s formal disciplinary Records.

Part 2. of subparagraph (d) of paragraph (1) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the text of the part in its entirety and substituting the following language so that as amended part 2. shall read:

2. All other formal cases shall be heard by the Assistant Vice President for Student Affairs, or appropriate designee, except in cases where such staff member is not available or has a bias toward either party in the pending case. In such cases the Assistant Vice President for Student Affairs shall assign one or more Student Affairs Administrators to hear the case.

Subparagraph (c) of paragraph (2) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) Once the student elects the procedure to be followed, and Election of Procedure Form and/or waiver form shall be completed and signed by the accused student and the Administrator conducting the conference. Once the election shall be made the decision is final and may not be changed during the course of the hearing.

Part 1. of subparagraph (d) of paragraph (2) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the words “tot he” and substituting instead the words “to the” so that as amended part 1. shall read:

1. Both the accuser and the accused are entitled to the same opportunity to have others present during a disciplinary proceeding; and

Subparagraph (h) of paragraph (3) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the 1st and 2nd paragraphs of the subparagraph in their entirety and substituting instead the following language so that as amended the first two paragraphs of subparagraph (h) shall read:

- (h) The right to be provided copies, upon request and in accordance with University Policy of all complaints, reports, witness statements and other written materials used in determining the charges.

Rights of complainant and/or victim. The University members (student, faculty or staff) who author “complaints” or “statements” as a victim in the alleged violation shall have the following rights:

Part 4. of subparagraph (b) of paragraph (4) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the words “Associate Dean of Students” and substituting instead the words “Assistant Vice President for Student Affairs” so that as amended part 4. shall read:

4. The Assistant Vice President for Student Affairs shall train and advise this Board in appropriate disciplinary procedures.

Subparagraph (b) of paragraph (5) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) In any case where the decision results in separation from the University, the decision shall be reviewed by the Vice President for Student Affairs, or appropriate designee, prior to notifying the Office of the Registrar and the appropriate Departments in which the student has been enrolled.

Subparagraph (d) of paragraph (5) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (d) shall read:

- (d) An appeal in writing setting forth grounds for the appeal and addressed to the appropriate appellate authority (as outlined in the next section) must be received in the Office of the Vice President for Student Affairs within three (3) class days after the student is notified of the sanction imposed at any hearing or appellate level.

Paragraph (6) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the text of the paragraph including subparagraphs (a) and (b) in their entirety and substituting instead the following language so that as amended paragraph (6) shall read:

(6) Route of Appeal

- (a) A decision by a Student Affairs Administrator may be appealed first to the Vice President for Student Affairs, then to the President.
- (b) A decision by the University Hearing Board may be appealed first to the Vice President for Student Affairs, then to the President.

Paragraph (7) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the words “Dean of Students” and substituting instead the words “Vice President for Student Affairs” so that as amended paragraph (7) shall read:

(7) Appellate Authority

The Vice President for Student Affairs and the President shall have the authority to do any of the following upon review of an appeal:

Subparagraph (b) of paragraph (7) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the word “lease” and substituting instead the word “lesser” so that as amended subparagraph (b) shall read:

- (b) Sustain the previous decision but impose a greater or lesser penalty, or

Subparagraph (a) of paragraph (8) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the word “Students” and substituting instead the word “Student” so that as amended subparagraph (a) shall read:

- (a) Types of Student Organizations. Student organizations may be either organizations sponsored by the University, such as student government associations, associated student body organizations and professional and honor societies, or organizations registered by the University. Organizations, which may be registered to operate on campus, include the following:

Part 5. of subparagraph (b) of paragraph (8) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the words “Student Code of Conduct” and substituting instead the words “Code of Student Conduct” so that as amended part 5. shall read:

- 5. Student organizations shall be vicariously responsible and liable for the conduct and actions of each member of the organization and for their guests while acting in the capacity of a member or while attending or participation in any activity of the organization. Such actions must not be in violation of the Code of Student Conduct.

Subparagraph (c) of paragraph (8) of rule 0240-3-1-.05 Disciplinary Procedure is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) Sanctions Against Student Organizations. Any registered student organization may be placed on probation, suspension, restriction or may have its registration withdrawn by the Assistant Vice President for Student Affairs, or by another Student Affairs Administrator appointed by the Vice President for Student Affairs. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in this document for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the Tennessee Uniform

Administrative Procedures Act, unless those provisions have been waived in writing by an authorized representative of the student organization. Such action may be taken for any one of the following reasons:

Authority: T.C.A. §49-8-203.

REPEALS

Rule 0240-3-1-.06 Involuntary Withdrawal or Temporary Suspension Due to Severe Psychological Disturbance is repealed.

Authority: T.C.A. §49-8-203.

(08-11)

**UNIVERSITY OF MEMPHIS
CHAPTER 0240-3-3
STUDENT DISCIPLINARY RULES**

1. Subparagraph (c) of paragraph (5) of rule 0240-3-3-.09 Traffic and Parking Regulations is amended by adding a sentence to the end of the subparagraph so that as amended subparagraph (c) shall read:

(c) Speeding. The maximum speed limit on The University of Memphis property, or on property leased by the University of Memphis, is 15 miles per hour. The maximum speed limit on Walker, Patterson and Zach Curlin streets is 25 miles per hour.

1. Part 3. of subparagraph (b) of paragraph (8) of rule 0240-3-3-.09 Traffic and Parking Regulations is further amended by deleting “\$10.00” and adding “\$25.00” so that as amended part 3. shall read:

3. Speeding \$25.00

Authority: T.C.A. §49-8-203.

Subparagraph (c) of paragraph (2) of rule 0240-3-3-.10 Motor Vehicle Registration and Parking is Amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (c) shall read:

(c) Visitors may also park in the parking garages located at the corner of Deloach and Norriswood streets and on Zach Curlin, without a permit. An hourly fee is charged for parking in the garages.

Authority: T.C.A. §49-8-203.

(08-12)

MIDDLE TENNESSEE STATE UNIVERSITY

**CHAPTER 0240-3-4
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Paragraph (4) of rule 0240-3-4-.04 Disciplinary Procedures is amended by deleting the text of the paragraph including the subparagraphs, parts and subparts in their entirety and substituting instead the following language so that as amended paragraph (4) shall read:

(4) Academic and Classroom Misconduct

(a) Classroom Misconduct.

The instructor has the primary responsibility for control over classroom behavior and can direct the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct which otherwise violates the general rules and regulations of the institution. The instructor may report such misconduct to the Assistant Dean for Judicial Affairs for implementation of such disciplinary sanctions as may be appropriate, including extended or permanent exclusion from the classroom.

(b) Academic Misconduct

1. Academic misconduct is defined as plagiarism, cheating, fabrication, or facilitating any such act. The instructor should report allegations of academic misconduct to the head of the concerned department, and to the Assistant Dean for Judicial Affairs. The instructor should attempt to inform the student of the allegations and notify the student that the information has been forwarded to the Assistant Dean.
2. Prior to notifying the Assistant Dean and at the instructor's discretion, the instructor may conduct a conference with the student in compliance with the following procedures:
 - (i) the student will be provided notice that he/she is believed to have committed an act or acts of academic misconduct in violation of University rules;
 - (ii) the student will be presented with all evidence in the knowledge or possession of the instructor which tends to support the allegation(s) of academic misconduct; and,
 - (iii) the student will be given the opportunity to present information on his/her behalf.

(c) In either case, and based upon the instructor's policy regarding academic misconduct, the instructor will either assign a grade of "F" for the exercise or examination, or assign an "F" for the course. This information, along with all supporting documentation of the violation, will be forwarded to the Assistant Dean of Students.

(d) Consistent with the Student Code of Conduct, and if applicable, following the instructor's conference with the student, the Assistant Dean for Judicial Affairs will meet with the student to determine if implementation of disciplinary sanctions is appropriate.

- (e) In the event a student believes he/she has been erroneously accused of academic misconduct, and at the discretion of the Assistant Dean of Students, a hearing before the University Discipline Committee may be arranged. If the student is found responsible for the allegation(s) of academic misconduct, the grade, as assigned by the instructor, will stand. Should the Discipline Committee absolve the student of the allegations of academic misconduct, the faculty member will reassess the student's grade based on the Discipline Committee's finding.
- (f) Consistent with other disciplinary cases, the Discipline Committee will forward their recommendations for sanctions to the Vice President for Student Affairs.
- (g) The student may stay in class pending a hearing if the faculty member determines that the student's presence in the class does not interfere with the instructor's ability to teach the class or the ability of other class members to learn.
- (h) Appeals will be heard by the Student Appeals Committee in accordance with established procedures.

Subparagraph (i) of paragraph (6) of rule 0240-3-4-.04 Disciplinary Procedures is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (i) shall read:

- (i) Disciplinary files developed will be voided if the student is not found to be responsible for a rules violation. A permanent file will be maintained if a student is suspended or expelled as a result of his/her being found to be responsible for a rules violation. No reference to the suspension or expulsion will be made on the student's transcript unless the sanction so specifies. Files developed in cases in which a lesser sanction has been imposed will be retained for a period of five (5) years after date of action unless the sanction specifies that it should be retained for a longer period.

Authority: T.C.A. §49-8-203.

Rule 0240-3-4-.05 Guidelines for Social Activities is amended by deleting the text of the rule, including the subparagraphs, in its entirety and substituting instead the following language so that as amended the rule shall read:

- (1) **General Information.** Social activities allow students to develop social skills and organizational abilities. In order to maintain an environment conducive to education, social activities must be conducted in accordance with established guidelines.
- (2) Social activities include, but are not limited to, receptions, open houses, parties, dances, mixers, step shows, musical performances, banquets, recreational activities, picnics, or any other activity of social purpose planned by registered student organizations and attended by students and/or invited guests. Social activities must be approved for registration by the appropriate University official.
- (3) **Guidelines.** The following guidelines apply to social activities:
 - (a) Social activities are limited to University students with an MTSU ID, and/or to persons with a written invitation. An announcement of general circulation to the campus or community at-large is not considered to be an invitation.
 - (b) The advertising and promotion of social activities must be limited to the campus.
 - (c) Activities that are considered performances, and where admission is charged, may request special permission from the appropriate University official to advertise the event at off-campus locations.

- (d) Organizations planning social activities must comply with all University regulations and with local, state and federal laws and ordinances.
- (e) All social activities, whether on or off-campus, must be appropriately registered and approved as outlined in the General Rules on Student Organizations.
- (f) Any student organization which intends to conduct a social activity at an off-campus location where alcohol will be present must provide assurance at the time of registration of the event that the organization will conduct the activity in compliance with the requirements concerning the responsible use of alcohol outlined on the Statement of Assurance form. Student organizations must provide evidence of liability insurance in the name of the organization before such approval will be considered.

Authority: T.C.A. §49-8-203.

Part 1. of subparagraph (b) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is amended by deleting the text of the subpart in its entirety and substituting instead the following so that as amended subpart 1. shall read:

- 1. White: Faculty/Administrators/Staff (including residence hall directors and graduate teaching assistants). Faculty, administrators, and staff may not transfer their permit to any student (or student vehicle). White permits are also permitted in green parking areas. Note: Parking permits will be denied for faculty/administration/staff who have outstanding fines from the prior semester(s) until they are paid in full. The first fine after permit expiration will result in towing of vehicle.

Part 2. of subparagraph (b) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the subpart in its entirety and substituting instead the following language so that as amended subpart 2. shall read:

- 1. Green: Available to administrators, faculty, staff, and students.

Part 3. of subparagraph (b) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the part in its entirety and renumbering the subsequent parts accordingly.

Part 5. of subparagraph (b) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the part in its entirety.

Subparagraph (h) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by adding a new first paragraph so that as amended subparagraph (h) shall read:

- (h) After 6:30 p.m., Monday through Friday and on weekends, White and Green permit parking areas are open for any permitted vehicle. Yellow curbs, no parking zones, disabled and reserved spaces are in effect 24 hours a day, seven days a week.

Part 6. of subparagraph (h) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the part in its entirety and renumbering the subsequent parts appropriately.

Subparagraph (b) of paragraph (8) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph and substituting the following language so that as amended subparagraph (b) shall read:

- (b) Vehicles of violators with five (5) or more citations in a semester, whether paid or not, will be towed/booted at the owner/registrator's expense.

Subparagraph (c) of paragraph (8) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph in its entirety and adding new subparagraph (c) through (e) so that as amended new subparagraphs (c) through (e) shall read:

- (c) Citations may be issued every four (4) hours. No more than two (2) tickets will be issued per day for the same violation occurring at the same location.
- (d) Overtime parking citations (parking meter violations) may be issued every hour.
- (e) All fines are to be paid at the Business Office in the Cope Administration Building, Monday through Friday, 8:00 a.m. – 4:00 p.m.

Authority: T.C.A. §49-8-203.

Part 1. of subparagraph (f) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is amended by deleting the part in its entirety and substituting instead the following language so that as amended part 1. Shall read:

- 1. White: Available to Faculty/Administrators/Staff (to include residence hall directors and graduate teaching assistants). White permits are also allowed to park in Green areas.

Part 2. of subparagraph (f) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by deleting the text of the part and substituting the following language so that as amended part 2. shall read:

- 2. Green: Available to Administrators, Faculty, Staff, and students.

Part 3. of subparagraph (f) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by deleting the text of the part in its entirety and renumbering the subsequent parts appropriately.

Part 3. (formerly part 4.) of subparagraph (f) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 3. shall read:

- 3. Blue: Students and Employees with Disabilities.

Subparagraph (i) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (i) shall read:

- (i) Temporary parking permits will be issued as follows:

Part 1. of subparagraph (i) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by adding a sentence to the end of the part so that as amended part 1. shall read:

- 1. To any employee or student operating a vehicle as a temporary substitute for a registered vehicle. The permit will be valid for seven (7) days from the date of issuance and a total of three (3) may be issued during any semester. The permit will indicate the appropriate color area in which the vehicle may park. This permit is subject to a fee.

Subparagraphs (n) through (r) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by deleting the texts of the subparagraphs in their entirety and substituting instead the following language so that as amended subparagraphs (n) through (r) shall read:

- (n) All residents of Womack Lane Apartments, Scarlett Commons, and Greek Row are required to purchase a green parking permit. A maximum of two (2) permits may be purchased by any family residing at Womack Lane Apartments.
- (o) All residents of Womack Lane Apartments, Scarlett Commons, and Greek Row are also required to receive a special decal that is to be placed adjacent to the MTSU parking permit. This decal may be received through the director of Womack Lane Apartments, Scarlett Commons, or Greek Row. (The decal will be issued free of charge. There will be a different decal for each resident area).
- (p) Abandoned/immobile vehicles parked at Womack Lane Apartments, Scarlett Commons, and/or Greek Row will be towed at the owner/registant's expense (T.C.A. §§55-16-101 to 55-16-109).
- (q) The parking areas within Womack Lane Apartments, Scarlett Commons and Greek Row are reserved for the residents of these areas only. All other vehicles are subject to be cited and/or removed at the owner/registant's expense.
- (r) Any resident of Womack Lane Apartments, Scarlett Commons, or Greek Row who holds a valid disabled parking permit may park in any designated disabled, White, or Green space, as well as at any parking meter.

Authority: T.C.A. §49-8-203.

MIDDLE TENNESSEE STATE UNIVERSITY

CHAPTER 0240-4-4 STUDENT HOUSING RULES

AMENDMENTS

Paragraph 19 of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph 19 shall read:

- 19. Keys. Room or apartment keys are the property of the University and a student may not have duplicate keys made. Students who misplace their key and need access to their room should contact their residence hall front desk to be issued a temporary key. As a security precaution, students who lose their key will have their lock changed and the core replaced and will be charged the appropriate fee. Residents are not permitted to share or loan their keys to other persons.

Paragraph 22 of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is further amended by adding the words "may be" and "if available" so that as amended paragraph 22 shall read:

- 22. Cable. Every room in the residence halls is equipped with basic cable service free of charge. Expanded basic and premium channels may be available at an additional cost and, if available, may be purchased directly from InterMedia Cable. A cable ready television is all that is required to activate cable. Cable reception problems should be reported to the hall staff. The cable company reserves the right to discontinue services to residents who fall behind in payment for premium services or who tamper with cable equipment.

Authority: T.C.A. §49-8-203.

(08-13)

TENNESSEE TECHNOLOGICAL UNIVERSITY

**CHAPTER 0240-3-6
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Part 4. of subparagraph (a) of paragraph (16) of rule 0240-3-6-.05 Disciplinary Procedures is amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 4. shall read:

4. All case records are maintained in confidential case files in the Office of the Dean of Students. The status of a particular Council case will be released by the Office of the Dean of Students to the Chairman of that Council upon request. The Dean of Students may release information concerning the status of a disciplinary case to persons involved in the case. These persons may include the accuser, the accused, the Student Affairs staff, and other appropriate University officials.

Subparagraph (a) of paragraph (17) of rule 0240-3-6-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (a) shall read:

- (a) A student may request an appeal to the Vice President for Student Affairs from the findings and/or recommendations of the University Student Judicial Council or University Judicial Council, or from the decision of the Dean of Students. The Vice President for Student Affairs' disposition of an appeal may be further appealed to the President of the University. The President of the University will consider the first appeal from the findings and/or recommendations of a hearing as provided under the Tennessee Uniform Administrative Procedures Act (TUAPA). The student must notify the Dean of Students in writing within two (2) calendar days of receipt of the notification of the decision of the hearing body, Dean, or Vice President of his/her desire to appeal.

Authority: T.C.A. §49-8-203.

Part 2. of subparagraph (c) of paragraph (2) of rule 0240-3-6-.06 Academic Misconduct Disciplinary Procedures is amended by deleting the text of the part and substituting instead the following language so that as amended part 2. shall read:

2. The Office of the Vice President for Student Affairs shall provide the support services for the College Academic Misconduct Committee.

Authority: T.C.A. §49-8-203.

TENNESSEE TECHNOLOGICAL UNIVERSITY

**CHAPTER 0240-4-6
STUDENT HOUSING RULES**

AMENDMENTS

Paragraph (3) of rule 0240-4-6-.01 Eligibility is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (3) shall read:

- (3) The basis for waivers and exceptions for living in the residence halls are: (A) students who have completed four semesters of college course work post high school graduation; (B) students commuting from parent and/or guardian residency which is within a fifty mile radius; (C) students living with immediate relatives who are permanent residents-specifically identified as grandparents, brothers or sisters who are not enrolled at the university within a fifty mile radius; (D) students participating in academic internship programs; (E) married students; (F) students with physical and/or emotional disabilities verified by a licensed physician; and, (G) emergency release granted by the Office of Residential Life. [Please note: The signing of a housing agreement obligates the student to fulfill the terms and conditions of the agreement for the duration of the agreement. The residence hall agreement can be signed for the duration of the agreement. The residence hall agreement can be signed for one semester or the entire academic year. A Fall only agreement can be renewed for the following Spring Semester.

Paragraph (6) of rule 0240-4-6-.01 Eligibility is further amended by deleting the paragraph number and renumbering the subsequent paragraphs appropriately.

Authority: T.C.A. §49-8-203.

Subparagraph (c) of paragraph (2) of rule 0240-4-6-.02 Residence Hall Conduct and Disciplinary Sanctions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) Tampering with security devices, fire fighting equipment, smoke detectors and/or fire alarms is prohibited.

Paragraph (3) of rule 0240-4-6-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the word “contract” and adding the word “agreement” so that as amended paragraph (3) shall read:

- (3) All students who occupy any residence unit shall be subject to the rules, regulations, policies and procedures of the Tennessee Board of Regents and the University related to conduct and student housing, including visitation regulations, the provisions of the Tennessee Board of Regents’ policy on student residence regulations and agreements, and the University student handbook and residence and apartment handbook, shall be incorporated by reference into each student agreement.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-4-6-.03 Resident Responsibilities is amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (1) shall read:

- (1) The University does not maintain insurance on any personal property of students, and all personal property of students on the premises shall be at the risk of the students. The University shall not be liable for any damages to or theft of personal property of students in students residence units or on its grounds prior to, during or subsequent to the period of the agreement. Personal property remaining in student residence units prior to or subsequent to the period of the agreement will be disposed of by the University.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-4-6-.04 Visitation Policy is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) Residential Life staff members will be available during the entire period and visit with residents and their guests.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-4-6-.05 Contract Term and Conditions is amended by deleting the words “Year” and “an” and adding the words “year” and “any” so that as amended paragraph (2) shall read:

- (2) The term of any student residence agreement or lease for a residence hall unit may be for any or all of the regular semesters within the academic year of the University, but shall not include any period between semesters, any holiday or vacation periods or summer periods unless otherwise designated by the University.

Paragraph (3) of rule 0240-4-6-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (3) shall read:

- (3) Assignment to or occupancy of a residence hall room does not include vacation periods but will begin and end on the dates of the semester(s) as indicated in the University catalog indicating established hall opening and closing dates. Limited student housing may be available at an additional cost between semesters and must be approved by the Director of Residential Life.

Authority: T.C.A. §49-8-203.

Subparagraph (c), including parts 1-4, of paragraph (1) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) A student may be released from this residence hall agreement and receive a refund of his prepayment before the effective date of the contract by submitting written notification of cancellation to the Office of Residential Life by August 1st for fall semester and/or academic year agreements, by December 15th for spring semester only agreements and by May 5th for summer semester agreements for the initial semester the residence hall agreement becomes effective. Additionally, a student may be granted a release from this residence hall agreement by submitting written notification of cancellation to the Office of Residential Life prior to the first official day of hall opening for the initial semester the agreement becomes effective, or by withdrawal from the University or graduation. Releases granted after the established cancellation dates and prior to the first official day of hall opening for the initial semester the agreement becomes effective will result in a forfeiture of your prepayment. Students are advised to review current University policy requiring students to live in University housing to determine eligibility to live off-campus.

Subparagraph (b) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) A student may be released from this residence hall agreement before the effective date of the contract by submitting written notification of cancellation to the Office of Residential Life prior to the first official day of hall opening for the initial semester the contract becomes effective, or by withdrawal from the University or graduation. Students are advised to review current University policy requiring students to live in University housing to determine eligibility to live off-campus.

Part 2. of subparagraph (c) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 2. shall read:

2. Leaving the University at the end of a semester to participate in one of the University's academic internship programs; or

Part 3. of subparagraph (c) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the words "University Housing" and adding the words "Residential Life" so that as amended part 3. shall read:

3. An emergency release granted by the Office of Residential Life.

Authority: T.C.A. §49-8-203.

(08-14)

CLEVELAND STATE COMMUNITY COLLEGE

CHAPTER 0240-3-8 STUDENT DISCIPLINARY RULES

Part 2. of subparagraph (g) of paragraph (5) of rule 0240-3-8-.06 Traffic and Parking Regulations is amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 2. shall read:

2. Faculty, staff, and visitors may appeal a traffic citation to the Parking Ticket Appeals Committee for Faculty and Staff.

Part 3. of subparagraph (g) of paragraph (5) of rule 0240-3-8-.06 Traffic and Parking Regulations is further amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 3. shall read:

3. Visitors who receive parking violation citations should appeal those to the Parking Ticket Appeals Committee for Faculty and Staff within fifteen (15) calendar days.

Authority: T.C.A. §49-8-203.

(08-15)

DYERSBURG STATE COMMUNITY COLLEGE

**CHAPTER 0240-3-10
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Subparagraph (h) of paragraph (2) of rule 0240-3-10-.02 Disciplinary Offenses is amended by adding a sentence to the end of the paragraph so that as amended subparagraph (h) shall read:

- (h) Firearms and other dangerous weapons. Any possession of or use of firearms or dangerous weapons of any kind. T.C.A. §39-17-1309 prohibits the possession of weapons, including firearms, on any property owned, used, or operated by TBR.

Paragraph (4) of rule 0240-3-10-.02 Disciplinary Offenses is further amended by adding the words “and/or any institution in the State University and Community College System of Tennessee” so that as amended paragraph (4) shall read:

- (4) For the purposes of these Regulations, a “student” shall mean any person who is registered for study at the College and/or any institution in the State University and Community College System of Tennessee for any academic period. A person shall be considered a student during any period which follows the end of an academic period which the student has completed until the last day for registration for the next succeeding regular academic period, and during any period while the student is under suspension from the institution.

Authority: T.C.A. §49-8-203.

Subparagraph (h) of paragraph (2) of rule 0240-3-10-.04 Disciplinary Sanctions is amended by deleting the words “well being” and adding the words “well-being” so that as amended subparagraph (h) shall read:

- (h) Interim or summary suspension. Though as a general rule, the status of a student accused of violations of these Regulations should not be altered until a final determination has been made in regard to the charges against him, summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the institution community or its guests, destruction of property, or substantial disruption of classroom or other campus activities. In any cases of immediate suspension, the student shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect, the student shall be provided a hearing on the suspension as soon as possible.

Authority: T.C.A. §49-8-203.

Part 5. of subparagraph (a) of paragraph (3) of rule 0240-3-10-.05 Disciplinary Procedures is amended by deleting the words “whose participation shall be advisor” so that as amended part 5. shall read:

- 5. His/Her right to be accompanied by an advisor whose participation shall be limited to advising the student;

Authority: T.C.A. §49-8-203.

Subparagraph (e) of paragraph (2) of rule 0240-3-10-.06 Traffic and Parking Regulations by deleting the word “martin” and adding the word “Martin” so that as amended subparagraph (e) shall read:

- (e) Faculty and staff should purchase a decal at the beginning of the academic year in August. Decals may be purchased in the Business Office or at the Fall update. A campus access fee is paid by students when they pay their other fees at the beginning of the semester. UT Martin and/or the University of Memphis faculty and students may purchase a decal during the first class meeting from a representative of the Student Services Offices. New employees will pay the full fee before January 1. After January 1, employees will pay one-half of the annual fee.

Authority: T.C.A. §49-8-203.

(08-16)

SHELBY STATE COMMUNITY COLLEGE

**CHAPTER 0240-3-14
STUDENT DISCIPLINARY RULES**

REPEALS

Chapter 0240-3-14 Student Disciplinary Rules are repealed in their entirety.

Authority: T.C.A. §49-8-203.

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

**CHAPTER 0240-3-14
STUDENT DISCIPLINARY RULES**

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0240-3-14-.01 COLLEGE POLICY STATEMENT.

- (1) Community college students are citizens of the state, local, and national governments, and of the academic community and are, therefore, expected to conduct themselves as law-abiding members of each community at all times. Admission to Southwest Tennessee Community College carries with it special privileges and imposes special responsibilities apart from those rights and duties enjoyed by non-students. In recognition of the special relationship that exists between the College and the academic community which it seeks to serve, the Tennessee Board of Regents has authorized the Presidents of the Colleges under its jurisdiction to take such action as may be necessary to maintain campus conditions and preserve the integrity of the College and its educational environment.

- (2) Pursuant to this authorization, the College has developed the following regulations which are intended to govern student conduct on the campus. In addition, students are subject to all national, state and local laws and ordinances. If a student's violation of such laws or ordinances also adversely affects the College's pursuit of its educational objectives, the College may enforce its own regulations regardless of any proceedings instituted by other authorities. Conversely, violation of any section of these regulations may subject a student to disciplinary measures by the College whether or not such conduct is simultaneously violative of state, local, or national laws.

Authority: T.C.A. §49-8-203.

0240-3-14-.02 DISCIPLINARY OFFENSES.

- (1) Disciplinary action may be taken against a student or student organization for violations of the following regulations which occur on College owned, leased, or otherwise controlled property, or which occur off-campus when the conduct impairs, interferes with or obstructs any College activity or the missions, processes or functions of the College. In addition, disciplinary action may be taken on the basis of any conduct, on or off campus, which poses a substantial threat to persons or property within the College community.
- (2) For the purposes of these regulations, a "student" shall mean any person enrolled during any period. A person will continue to be considered a student during the period which follows the end of an academic period which the student has completed until the last day of registration for the next succeeding regular academic period, and during any period while the student is under suspension from the College.
- (3) Generally, through appropriate due process procedures, College disciplinary measures shall be imposed for conduct which adversely affects the College's pursuit of its educational objectives which violates or shows a disregard for the rights of other members of the academic community, or which endangers property or persons on property owned or leased by the College or College controlled property.
- (4) Individual or organizational misconduct which is subject to disciplinary sanction shall include but not be limited to the following examples:
 - (a) Conduct dangerous to others. Any conduct which constitutes a serious danger to any person's health, safety or personal well being, including any physical abuse or immediate threat of abuse;
 - (b) Hazing. Hazing means any intentional or reckless act in Tennessee on or off the property of any higher education College by one (1) student acting alone or with others which is directed against any other student, that endangers the mental or physical health or safety of that student, or which induces or coerces a student to endanger such student's mental or physical health or safety. Hazing does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization.
 - (c) Disorderly conduct. Any individual or group behavior which is abusive, obscene, lewd, indecent, violent, excessively noisy, disorderly, or which unreasonably disturbs other groups or individuals.
 - (d) Obstruction of or interference with College activities or facilities. Any intentional interference with or obstruction of any College activity, program event, or facilities, including the following:
 1. Any unauthorized occupancy of College or College controlled facilities or blockage of access to or from such facilities.

2. Interference with the right of any College member or other authorized person to gain access to any College controlled activity, program, event or facilities.
 3. Any obstruction or delay of a public safety officer, fireman, policeman, or any other College official in the performance of his/her duty.
- (e) Misuse or damage to property. Any act of misuse, vandalism, malicious or unwarranted damage, destruction, defacing, disfiguring or unauthorized use of property belonging to the College including but not limited to: fire alarms, fire equipment, elevators, telephones, College keys, library materials, computing resources, computer, and/or safety devices; and any such act against a member of the College community or a guest of the College;
 - (f) Theft, misappropriation, or unauthorized sale. Any act of theft, misappropriation, or sale of College property or any such act against a member of the College community or a guest of the College;
 - (g) Misuse of documents or identification cards. Any forgery, alteration of or unauthorized use of College documents, forms, records or identification cards, including the giving of any false information, or withholding necessary information in connection with a student's admission or enrollment status at the College;
 - (h) Firearms and other dangerous weapons. Any possession of or use of firearms or dangerous weapons of any kind. State law prescribes a maximum penalty of five (5) years imprisonment and a fine not to exceed \$2,500 for carrying weapons on school property;
 - (i) Explosives, fireworks, and flammable materials. The unauthorized possession, ignition or detonation of any object or article which could cause damage by fire or other means to persons or property or possession of any substance which could be considered to be and used as fireworks;
 - (j) Alcoholic beverages. The consumption or possession of alcoholic beverages is not allowed at the College;
 - (k) Drugs. The unlawful possession or use of any drug or controlled substances (including any stimulant, depressant, narcotic, or hallucinogenic drug or substances, or marijuana) or sale or distribution of any such drug or controlled substances;
 - (l) Gambling. Gambling in any form.
 - (m) Financial responsibility. Failure to meet financial responsibilities to the College promptly including, but not limited to, knowingly passing a worthless check or money order in payment to the College or to a member of the College community acting in an official capacity;
 - (n) Unacceptable conduct in hearings. Any conduct at a College hearing involving contemptuous, disrespectful, or disorderly behavior, or the giving of false testimony or other evidence at any hearing;
 - (o) Failure to cooperate with College Officials. Failure to comply with directions of College officials acting in the performance of their duties;
 - (p) Attempts and aiding and abetting the commission of offenses. Any attempt to commit any of the foregoing offenses, or the aiding or abetting of the commission of any of the foregoing offenses (an "attempt" to commit an offense is defined as the intention to commit the offenses coupled with the taking of some action toward its commission);

- (q) Violations of state or federal laws. Any violation of state or federal laws or regulations proscribing conduct or establishing offenses; which laws and regulations are incorporated herein by reference;
- (r) Violations of the general rules and regulations of the College as published in an official College publication, including the intentional failure to perform any required action or the intentional performance of any prohibited action;

Authority: T.C.A. §49-8-203.

0240-3-14-.03 CLASSROOM MISCONDUCT.

- (1) The instructor has the primary responsibility for control over classroom behavior and the maintenance of academic integrity and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct or conduct violative of the general rules and regulations of the College. Extended or permanent exclusion can be affected only through appropriate procedures of the College.
- (2) Disruptive conduct shall include but is not limited to, any intentional interference with the normal classroom procedure or the presentation of the instructor and/or other students and the interference with other students' rights to pursue course work.
- (3) The instructor shall report the incident to the Director of Student Life and the Academic Department Chairperson. The Director of Student Life will meet with the instructor and chairperson to determine the appropriate action before the next class period. If the instructor wishes to exclude the student from the classroom, due process procedures will be followed as outlined in the Student Disciplinary and Due Process Policy. The hearing shall be conducted by the Student Disciplinary Committee. The purpose of the hearing is to determine whether the student will be readmitted to the classroom. Students may appeal decisions of the committee to the Assistant Vice President for Student Development.
- (4) If there is agreement for readmission, the student will be readmitted but may be subject to normal disciplinary procedures as set forth in the College's regulations on Student Conduct and Disciplinary Sanctions.

Authority: T.C.A. §49-8-203.

0240-3-14-.04 DISCIPLINARY PROCEDURES.

- (1) The following describes procedures followed by College officials in the administration of discipline. These procedures shall apply to students and registered student organizations. The term "student" shall be construed to include a registered student organization wherever the term appears in the procedures. Those rights described under "College Procedures" are available to a student anytime he or she is alleged to have violated a College rule.
- (2) College Procedures. The administration of discipline is a function of the Director of Student Development and/or the appropriate adjudicating body.
 - (a) In general, misconduct involving the violation of College rules is reported to the Director of Student Development. The Director will then investigate the alleged misconduct.
 - (b) After notifying the student as to what College regulation(s) have been allegedly violated, the Director of Student Development may solicit from the student an admission or denial of violation.

1. When a student admits to a violation, the Director shall discuss those disciplinary sanctions which might apply (restitution, warning, expulsion, etc.). A student's admission of violation and acceptance of the sanction(s) imposed by the Director of Student Development will be reduced to writing, signed by the student, and notarized.
 2. If a student pleads non-violation to an offense, he or she may choose to have the Director of Student Development adjudicate the case or request a hearing before the Student Disciplinary Committee.
- (c) The Student Disciplinary Committee is composed of five members: a chairman, two (2) student members, and two (2) faculty members. The two student members will be appointed by the President from a pool of students recommended by the President of the Student Government Association. In order to be eligible for the pool, a student must have completed a minimum of twenty-four (24) credit hours at Southwest Tennessee Community College, have a minimum of 2.5 GPA, and be in good standing. A majority of the Student Disciplinary Committee must be present in order to hear a case, and a majority of the number present must be in agreement to reach a decision.
- (d) If a hearing is requested, the following procedures shall be observed:
1. The student shall be notified in writing of the breach of regulations of which he or she is charged.
 2. The student shall be advised in writing of the time and place of the hearing within ten (10) days of the date of notification.
 3. The student shall be advised in writing of the following rights:
 - (i) The right to present his or her case;
 - (ii) The right to be accompanied by an advisor or counsel whose participation shall be limited to advising the student;
 - (iii) The right to call witnesses on his or her behalf;
 - (iv) The right to confront witnesses against him or her;
 - (v) The student shall be advised in writing of the method of appeal.
 4. All hearings shall be closed unless the student elects in writing to have an open hearing.
 5. If the Director of Student Development is to adjudicate the case, the following conditions must be met:
 - (i) The student requests the procedure;
 - (ii) The student is willing to accept the Director's action as final.
- (3) Appeals Procedures.
- (a) In the interest of due process, only the recipient of disciplinary action has the right of an appeal. It is the responsibility of the body of the original jurisdiction to inform the disciplined student of the right to appeal and to whom the appeal should be presented. This appeal must be submitted in writing within 48 hours (excluding weekends and holidays) of the original decision and must specify grounds which would justify the granting of said appeal. The only basis for granting an appeal is:

1. An error in procedural due process by the body of the original jurisdiction.
 2. The emergence of new evidence pertaining to the case.
- (b) General dissatisfaction with the outcome of the decision shall not be accorded as a basis for granting an appeal.
 - (c) An appeal in writing, setting forth the grounds for the appeal, must be submitted via the Director of Student Development to the Vice President of Student Affairs within 48 hours of the original decision.
 - (d) The President of the College retains final authority on all campus matters, including disciplinary decisions. Therefore, any disciplinary action is subject to final review by the President of the College.
- (4) Tennessee Uniform Administrative Procedures Act. The College believes that the disciplinary procedures described above serve well the interest of students in obtaining full and fair hearings with a minimum of expense, complexity and inconvenience. An alternative to these procedures, applicable to cases involving student conduct serious enough to warrant (1) suspension or expulsion from the College, a program or a course for disciplinary reason; or (2) revocation of registration of a student organization during the term of the registration is provided by the "Tennessee Uniform Administrative Procedures Act." These cases shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with College procedures.
- (5) Cases of alleged sexual assault. In cases involving alleged sexual assault, both the accuser and the accused shall be informed of the following:
- (a) Both the accuser and the accused are entitled to the same opportunity to have others present during a disciplinary proceeding; and
 - (b) Both the accuser and the accused shall be informed of the outcome of any disciplinary proceeding involving allegations of sexual assault.

Authority: T.C.A. §49-8-203.

0240-3-14-.05 DISCIPLINARY SANCTIONS

- (1) Upon a determination that a student or organization has violated any of the rules, regulations or disciplinary offenses set forth in these regulations, the following disciplinary sanctions may be imposed, either singularly or in combination, by the appropriate College official.
- (2) Definition of Sanctions
 - (a) Restitution. A student who has committed an offense against property may be required to reimburse the College or other owner for damage to or misappropriation of such property. Any such payment in restitution shall be limited to actual cost of repair or replacement.
 - (b) Warning. The appropriate College official may notify the student that continuation or repetition of specific conduct may be cause for other disciplinary action.

- (c) **Reprimand.** A written reprimand, or censure, may be given to any student whose conduct violates these regulations. Such a reprimand does not restrict the student in any way, but does have important consequences. It may signify to the student that he or she is in effect being given another chance to conduct himself or herself as a proper member of the College community, but that any further violation will result in more serious penalties. In addition, a reprimand does remain on file in a student's education record pursuant to the TBR Guideline, G070, Disposal of Records.
 - (d) **Restriction.** A restriction upon a student's privileges for a period of time may be imposed. This restriction may include, for example, denial of the right to be present at the College in any way, denial of use of facilities, parking privileges, or participating in extracurricular activities for a maximum of one year.
 - (e) **Probation.** Continued enrollment of a student on probation may be conditioned upon adherence to these regulations. Any student placed on probation will be notified of the terms and length of probation. Probation may include restrictions upon the extracurricular activities of a student. Any conduct in violation of these regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.
 - (f) **Suspension.** If a student is suspended, he or she is separated from the College for a stated period of time with conditions of readmission stated in the notice of suspension.
 - (g) **Expulsion.** Expulsion entails a permanent separation from the College. The imposition of this sanction does become a part of the student's permanent record, and is a permanent bar to his or her readmission to the College.
 - (h) **Interim or summary suspension.** Though as a general rule, the status of a student accused of violations of the code should not be altered until a final determination has been made in regard to the charges against him, summary suspension may be imposed upon a finding by the Vice President for Student Affairs or his designated representative that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the College community or its guest, destruction of property, or substantial disruption of classroom or other campus activities. In any case of immediate suspension, the student shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect, the student shall be provided a hearing on the suspension as soon as possible.
- (3) The President of the College is authorized, in his or her discretion, to subsequently convert any sanction imposed to a lesser sanction, or to rescind any previous sanction, in appropriate cases.

Authority: T.C.A. §49-8-203.

0240-3-14-.06 TRAFFIC AND PARKING REGULATIONS.

- (1) (a) The entry, operation, and control of motor vehicles on Southwest Tennessee Community College property is authorized and directed by the President of Southwest Tennessee Community College, who may exercise such control as deemed necessary.
- (b) The Chief of Campus Police is responsible for the enforcement of this code.

- (c) The Chief of Campus Police may exclude or remove from the campus any vehicle used as an instrument in a crime, suspected of being stolen, abandoned or mechanically unfit, operated by a person under the apparent influence of intoxicants, or one that has not been properly registered in accordance with this code.
- (d) While the State of Tennessee and Southwest Tennessee Community College has no legal responsibility for the care and/or protection of any vehicle operated or parked on an STCC facility, there is a moral concern for the safety of such vehicles.
- (e) If a vehicle and/or its contents are stolen or damaged in any way while on STCC property, this information should be immediately reported to the Campus Police Office. Campus Police will offer assistance in processing reports and/or claims to the appropriate agencies.

(2) Definitions

- (a) Student - Any person registered in a course offered by Southwest Tennessee Community College.
- (b) Employee - Any non-student employed by Southwest Tennessee Community College.
- (c) Visitor - Any person on official business with, or present as a guest of, Southwest Tennessee Community College or its employees.
- (d) Parking Area - Areas so designated by Southwest Tennessee Community College for the parking of vehicles.
- (e) Campus - All areas falling within the jurisdiction of Southwest Tennessee Community College.
- (f) Parking/Registration Permit - The official motor vehicle registration authorization, which is a hanging type permit. It is designed to be displayed by hanging from the rear view mirror.
- (g) Revocation or Suspension of On-Campus Driving Privilege - The withdrawal of an individual's privilege to park or operate a vehicle on campus.

(3) Parking Regulations

- (a) Parking regulations are enforced twenty-four (24) hours daily, seven (7) days a week.
- (b) On-Campus parking areas are designated in the following manner:
 - 1. Students - Students may park in any appropriately designated STCC parking area.
 - 2. Employees - Employees may park in any appropriately designated STCC parking area.
 - 3. Handicapped or Disabled - Specific areas have been reserved for students and employees with disabilities who have Handicapped or Disabled permits. These individuals may utilize these areas, as well as any other non-reserved areas on campus.
 - 4. Reserved – Specific parking spaces may be designated for specific College officials or groups of individuals. Only those individuals who have designated parking may utilize those spaces.
- (c) Parking is prohibited in the following areas:

1. In fire lanes (all drive through lanes in parking lots are considered fire lanes).
 2. Within fifteen (15) feet of fire hydrants.
 3. In driveways, unless there is a marked parking space within the driveway.
 4. On a sidewalk, or on a grassed area.
 5. In any area that is designated as a “No Parking” zone.
 6. In Service and Delivery areas (except vendors and official vehicles).
 7. In “State Vehicle” designated parking areas.
 8. In non-designated parking spaces at off-campus sites.
 9. In any area that is designated for Handicapped or Disabled parking, with the exception of those persons who have a bona fide disability and who have been issued a State Handicapped permit or license plate.
- (d) The inability to locate a legal parking space in an approved area is not justification for improper parking.
- (4) Standing Violations
- (a) An unattended vehicle will be considered parked.
 - (b) Double parking is not permitted. If traffic is blocked by standing or stopping of a vehicle, the person for whom the vehicle is waiting may be held liable for the violation.
 - (c) Parking must be within the designated lines of a parking space, no line straddling.
 - (d) Parallel parked vehicles must be parked in the same direction as the flow of traffic.
- (5) Moving Violations
- (a) All vehicles must come to a complete stop at stop signs.
 - (b) Reckless driving (defined as the operation of a vehicle in a manner endangering life and property).
 - (c) Exceeding the speed limit on campus (15 miles per hour).
 - (d) Driving wrong way in a one-way lane.
 - (e) Driving across parking spaces.
- (6) Citations. Citations issued for violations are payable as follows:
- (a) Employees - Payable within thirty (30) days at the Bursar’s Office.
 - (b) Citations received while transporting, visiting, or otherwise serving the convenience of any employee or student will, in all cases, be charged to the recipient of the service.

- (c) The person to whom a vehicle is registered is responsible for that vehicle and all citations issued thereto. If the person operating the vehicle is other than the registrant when a violation is committed, both the driver and the registrant may be cited.
- (d) Student appeals may be made by submitting an appeal form to the Office of Student Life. The form can be obtained from the Campus Police Office and must be submitted within seventy-two (72) hours after the issuance of the citation.
- (e) Employees appeals may be made by submitting an appeal form to the Faculty/Staff Appeals Committee. The form can be obtained from the Campus Police Office and must be submitted within seventy-two (72) hours after issuance of the citation.
- (f) The failure to pay a college-issued citation will be entered on the student’s record. The student will be denied registration for further courses at Southwest Tennessee Community College and will be denied a transcript covering courses already completed until such time as all parking fines are paid.
- (g) The failure of an employee to pay a college-issued citation will result in an account receivable account being set up and processed pursuant to TBR Guideline B-010.
- (h) An individual who misrepresents any fact in the adjustment of a traffic citation will be subject to disciplinary and/or administrative action.

(7) Penalties

(a) No vehicle registration tag	\$15.00
(b) Moving violations	15.00
(c) Parking violations:	
1. In fire lanes	50.00
2. In disabled space	100.00
3. Parked across lines	15.00
4. All other violations	15.00

(8) Vehicle Registration

- (a) Students and employees eligible to operate vehicles on campus or designated center sites of Southwest Tennessee Community College must register their vehicles at the Campus Police Office.
- (b) Any individual who obtains vehicle registration by misrepresentation will be subject to disciplinary and/or administrative action.
- (c) Student parking permits will be issued to students each year for a campus access fee of \$10.00 per term.
- (d) Employee parking permits will be issued to employees each year for a campus access fee of \$10.00 per term.

- (e) Students and employees having a bona fide disability (permanent or temporary) must register their vehicle with the Campus Police Office.
 - (f) Visitors may obtain a guest parking permit from the sponsor of the activity in which they are involved. Regular visitors may obtain a temporary permit from the Campus Police Office. Visitors are permitted to park in any area on a space available basis. Visitors must adhere to all Southwest Tennessee Community College Parking Regulations. Visitor's violations will be charged to the visitor and/or the person who authorized the permit. The visitor/guest permit must be displayed by hanging from the rear view mirror.
- (9) Permit Display
- (a) To be considered properly registered, a vehicle must have a Southwest Tennessee Community College parking permit displayed as follows:
 - 1. Cars, trucks, vans - The permit must be displayed by hanging from the rear view mirror.
 - 2. Motorcycles and motor bikes - The permit will be permanently affixed to the windshield headlamp, or gas tank in a position where it is readily visible. Non-registered vehicles are not permitted to park in any Southwest Tennessee Community College parking facility unless a temporary permit is obtained in accordance with section paragraph (9), subparagraph (d) above.
 - (b) Non-registered vehicles are not permitted to park in any Southwest Tennessee Community College parking facility unless a temporary permit is obtained in accordance with subparagraph (8)(f) above.
 - (c) Proper registration allows the registrant to operate a vehicle on campus and to park in available designated spaces. It does not assure the registrant of a parking space and does not permit usage of parking facilities other than outlined in the Traffic Code.
- (10) Bicycles
- (a) Bicycles need not be registered.
 - (b) Bicycle riding is considered regular traffic.
 - (c) Bicycle riding is not allowed on campus sidewalks or grounds.
 - (d) Bicycles shall be parked in designated areas.
 - (e) Bicycles are not permitted inside any college building.
- (11) Student Traffic Appeals
- (a) Introduction

If a Southwest Tennessee student believes that he/she has justification, traffic citations may be appealed within 72 hours after issuance (Saturdays, Sundays and holidays excepted).
 - (b) Policy

Student has the option of appearing before the Committee for Traffic Appeals which will hear the appeal if they wish to make an oral argument. However, if this option is not exercised, the members of the committee will consider the appeal based upon the written statement submitted by the student on the appeal request form. The Committee will meet monthly and at such times as may be necessary. The location, date and time of the next scheduled committee hearing will be shared with the student at the time the request form is completed and submitted to the Director of Student Life. The Committee is to be composed of five students (the president and vice-president of the Student Government Association, three student organization representatives to be recommended by their faculty advisors). The decision of the committee membership will be made based upon the regulations set forth in the Southwest Tennessee Traffic Code (which is given to all students when they obtain a parking decal). The Committee shall select their chairperson and recording secretary.

(c) Procedures

1. The appeal process begins with the student completing the "Request to Void Ticket" form. These forms may be obtained, completed and left in the Office of Student Life. The traffic citation issued by the Campus Police must be attached to the appeal form at the time of its submission to the Committee.
2. The Committee will meet to review the appeals submitted by students for consideration of voiding the obligation. The student may verbally present his/her case to the Committee in support of the written documentation submitted.
3. Decisions of the Committee majority will determine the outcome of the appeal which in effect gives the committee the authority to void tickets. If the decision of the committee membership is that the assessment on the citation must be paid, fines must be paid in accordance with the procedures set forth in the Southwest Tennessee Traffic Code.
4. A copy of the action of the Committee on an appeal will be made known to the Assistant Vice President for Student Development and the Campus Police. The Campus Police will notify the student of the results via returned student copy of the request form on which the action will be noted. If the student wishes to learn the committee decision prior to the receipt of their copy, the student may call the Office of Student Life after the committee hearing is held.
5. If the student feels that the Committee's decision must be appealed, the student may submit a written request to the Assistant Vice for Student Development within 72 hours after the decision of the Committee has been released. The Assistant Vice President will review the respective decisions and decide whether to uphold or override committee action.

(d) Limitations

Once a citation is issued to a student, notice of such is to be entered into the computer by the Public Safety Office, which results in a "hold" being placed on the student's records and denial of permission to register.

Authority: T.C.A. §49-8-203.

(08-17)

WALTERS STATE COMMUNITY COLLEGE

**CHAPTER 0240-3-16
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Part 3. of subparagraph (d) of paragraph (2) of rule 0240-3-16-.02 Disciplinary Offenses is amended by deleting the word “security” and adding the word “police” so that as amended part 3. shall read:

3. Any obstruction or delay of a campus police officer, fireman, or any institution official in the performance of his/her duty.

Authority: T.C.A. §49-8-203.

2. Paragraph (2) of rule 0240-3-16-.03 Academic and Classroom Misconduct is amended by deleting the words “mission-duct” and adding the word “misconduct” so that as amended paragraph (2) shall read:

- (2) Plagiarism, cheating, and other forms of academic dishonesty are prohibited. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. In addition to other possible disciplinary sanctions which may be imposed through the regular institutional procedures as a result of academic misconduct, the instructor has the authority to assign an F or a zero for the exercise or examination, or to assign an F in the course.

Authority: T.C.A. §49-8-203.

Subparagraph (c) of paragraph (1) of rule 0240-3-16-.06 Traffic and Parking Regulations is amended by deleting the words “Safety and Security Office” and adding the words “Campus Police Department” so that as amended subparagraph (c) shall read:

- (c) The Campus Police Department is required to implement and enforce these regulations.

Subparagraph (f) of paragraph (3) of rule 0240-3-16-.06 Traffic and Parking Regulations is further amended by deleting the word “of” and adding the word “on” so that as amended subparagraph (h) shall read:

- (f) All state of Tennessee motor vehicle laws are applicable on the WSCC Campus twenty-four (24) hours a day.

Subparagraph (h) of paragraph (3) of rule 0240-3-16-.06 Traffic and Parking Regulations is further amended by deleting the words “Safety and Security Office” and adding the words “Campus Police Department” so that as amended subparagraph (h) shall read:

- (h) All accidents must be reported to the Campus Police Department immediately. Written reports will be made to this office.

Paragraph (5) of rule 0240-3-16-.06 Traffic and Parking Regulations is further amended by deleting the words “Safety and Security Office” and adding the words “Campus Police Department” so that as amended paragraph (5) shall read:

- (5) Special Occasions and Emergencies. On special occasions, for example, athletic events, concerts, graduation exercises, etc., and in emergencies, parking and traffic limitations may be imposed by the Campus Police Department as required by the conditions which prevail.

Subparagraph (h) of paragraph (6) of rule 0240-3-16-.06 Traffic and Parking Regulations is further amended by deleting the words "Safety and Security Office" and adding the words "Campus Police Department" so that as amended subparagraph (h) shall read:

- (h) Visitors and guests receiving citations should return them to the Campus Police Department. No fine will be assessed.

Part 5. of subparagraph (a) of paragraph (7) of rule 0240-3-16-.06 Traffic and Parking Regulations is further amended by deleting the word "of" and adding the word "for" so that as amended part 5. shall read:

- 5. The Administrative advisor to the Traffic Court shall be the Vice President for Student Affairs or his designated representative.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-16-.07 Motor Vehicles Registration is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (1) shall read:

- (1) All motor vehicles used on campus must meet the registration requirement of the State of Tennessee. The Board of Regents requires that such vehicles also be registered with the College. The annual registration period begins August 15 of each year.

Paragraph (2) of rule 0240-3-16-.07 Motor Vehicles Registration is further amended by deleting the word "Security" and adding the words "Campus Police" so that as amended paragraph (2) shall read:

- (2) A registration hang tag is issued which must be clearly displayed on the rear view mirror of the vehicle registered. Any student taking non-credit courses must obtain a parking permit through the Office of Community Services Programs. Students enrolled for credit courses may obtain a registration hang tag from the Campus Police Department upon presenting a valid ID card or current fee receipt. (Each student enrolled for credit classes will be assessed a campus and security access fee. The fee will be assessed each semester in conjunction with maintenance and registration fees.)

Authority: T.C.A. §49-8-203.

(08-18)

PELLISSIPPI STATE TECHNICAL COMMUNITY COLLEGE

CHAPTER 0240-3-18 STUDENT DISCIPLINARY RULES

AMENDMENTS

Subparagraph (g) of paragraph (2) of rule 0240-3-18-.04 Disciplinary Sanctions is amended by deleting (,) and (the) so that as amended subparagraph (g) shall read:

- (g) Expulsion. Expulsion entails a permanent separation from Pellissippi State. The imposition of this sanction does become a part of the student's permanent record and is a permanent bar to his or her readmission to Pellissippi State.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-18-.05 Disciplinary Procedures is amended by adding a new paragraph (1) and renumbering the subsequent paragraphs appropriately. New paragraph (1) shall read:

- (1) Admission to Pellissippi State implies the student agrees to respect the rights of others and observe civil laws. Conduct regarded as dangerous or threatening that warrants response by local law enforcement officials will carry an immediate temporary suspension from the College. If the court convicts the student, the College may expel the student solely on the findings of the criminal court. If the College does not exercise this option, the student must begin the disciplinary process after the court proceeding concludes.

Subparagraph (g) of paragraph (2) (formerly paragraph (1)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (g) shall read:

- (g) The right to be advised of his/her right to appeal the decision of the Pellissippi State official or the disciplinary committee (Student Disciplinary Hearing Body) to the Pellissippi State President through the Student Support Committee.

Part 2. of subparagraph (d) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 2. shall read:

2. He/she may admit the alleged violation in writing and request an adjudication before the Student Disciplinary Hearing Body.

Part 3. of subparagraph (d) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the text of the part in its entirety and substituting instead the following language so that as amended part 3. shall read:

3. He/she may deny the alleged violation in writing and request an adjudication before the Student Disciplinary Hearing Body.

Subparagraph (e) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the words "Discipline Committee" and adding the words "Student Disciplinary Hearing Body" so that as amended subparagraph (e) shall read:

- (e) In cases referred to the Student Disciplinary Hearing Body, the Dean of Student Affairs shall, at least 5 days in advance of the hearing, notify the student in writing concerning the following:

Subparagraph (f) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the letter "(e)" and the word "Committee" and adding the letter "(f)" and relettering the subsequent subparagraphs appropriately and adding words "Student" and "Hearing Body" so that as amended subparagraph (f) shall read:

- (f) The student defendant may designate three (3) persons from the faculty and/or student body to observe the hearing; the Chair of the Student Disciplinary Hearing Body, a faculty or staff member of the Student Support Committee, may, for good cause, designate three (3) observers from the faculty and/or student body. The Student Disciplinary Hearing Body, however, may exclude any person who may be reasonably expected to interfere materially with the hearing. Otherwise, the hearing and other deliberations of the Student Disciplinary Hearing Body shall be closed except for appropriate observers from Pellissippi State administration.

Subparagraph (g) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the words “disciplinary Committee” and adding the words “Student Disciplinary Hearing Body” so that as amended subparagraph (g) shall read:

- (g) The decision reached at the hearing shall be communicated in writing to the student. It shall specify the action taken by the Student Disciplinary Hearing Body. Upon the request of the student, a summary of the evidence shall be provided to the student.

Subparagraph (h) of paragraph (4) (formerly paragraph (3)) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the word “Committee” and adding the words “Student” and “Hearing Body” so that as amended subparagraph (h) shall read:

- (h) A student shall be notified in writing of his or her right to appeal the decision of the Student Disciplinary Hearing Body to the President of Pellissippi State through the Student Support Committee within 5 days of receipt of decision. In cases of appeal, any action assessed by the Student Disciplinary Hearing Body shall be suspended pending outcome of the appeal. A copy of the final decisions shall be mailed to the student.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (1) of rule 0240-3-18-.06 Traffic and Parking Regulations is amended by adding the words “Magnolia Avenue” so that as amended subparagraph (a) shall read:

- (a) Traffic and Parking regulations are established and enforced to assure the rights and privileges of students, faculty, staff, visitors and others who operate motor vehicles at the Pellissippi, Division Street, Magnolia Avenue, and Blount County Campuses of Pellissippi State Technical Community College (PSTCC).

Subparagraph (a) of paragraph (2) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by adding the words “or lower posted speed limits” to the end of the sentence so that as amended subparagraph (a) shall read:

- (a) Speed limit for all vehicles will not exceed 20 m.p.h. or lower posted speed limits.

Subparagraph (a) of paragraph (4) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by adding the words “or over posted speed limits)” so that as amended subparagraph (a) shall read:

- (a) Speeding (20 m.p.h. limit or over posted speed limits);

Subparagraph (e) of paragraph (4) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by deleting the word “public” and adding the words “and security” so that as amended subparagraph (e) shall read:

- (e) Failure to obey safety and security personnel;

Paragraph (5) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (5) shall read:

- (5) Division Street Campus Parking. Staff, faculty, student, visitor, and disabled parking is designated by postings on campus. However, PSTCC students may also utilize the gravel parking lot located across the street (Liberty) from the Tennessee Technology Center-Knoxville. Students should not park on the semi-trailer driver’s training course.

Paragraph (6) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (6) shall read:

- (6) Blount County Campus. Staff, faculty, student, visitor, and disabled parking is designated by postings on campus.

Rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by adding a new paragraph (7) and renumbering the subsequent paragraphs appropriately. New paragraph (7) shall read

- (7) Magnolia Avenue Campus. Staff, faculty, student, visitor, and disabled parking is designated by postings on campus.

Subparagraph (b) of paragraph (9) (formerly paragraph (8)) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) The person receiving a citation may obtain an appeals form from the Safety and Security Office. The student will present the completed appeal form to the Safety and Security Office. Forms can be obtained and submitted in the main office at the branch campuses.

Subparagraph (d) of paragraph (9) of rule 0240-3-18-.06 Traffic and Parking Regulations is further amended by adding the words “either in person or in written form” so that as amended subparagraph (d) shall read:

- (d) The person will present his or her case to the committee either in person or in written form.

Subparagraph (f) of paragraph (9) of rule 0240-3-18-.06 Traffic and Parking Regulation is further amended by the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (f) shall read:

- (f) The Committee will hear cases once a month at all campuses.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-18-.08 Registration of Vehicles is amended by adding the words “Magnolia Avenue,” so that as amended paragraph (1) shall read:

- (1) All vehicles operated on the Pellissippi, Division Street, Magnolia Avenue, and Blount County campuses by students, faculty and staff must be properly registered and display a prescribed hang tag. Vehicles include pick-up trucks, vans and jeeps, as well as automobiles.

Paragraph (3) of rule 0240-3-18-.08 Registration of Vehicles is further amended by deleting the word “Public” and adding the words “and Security” so that amended paragraph (3) shall read:

- (3) Citations will be issued by the Safety and Security Office beginning the first day of classes each semester.

Paragraph (4) of rule 0240-3-18-.08 Registration of Vehicles is further amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (4) shall read:

- (4) Student vehicle registration will be held at the beginning of each semester and the registration site will be announced in the registration procedure. Hang tags are also available from the Safety and Security Office and the receptionist at each branch campus during the entire semester.

Paragraph (7) of rule 0240-3-18-.08 Registration of Vehicles is further amended by deleting the paragraph in its entirety and renumbering the subsequent paragraphs appropriately.

Paragraph (7) (formerly paragraph (8)) of rule 0240-3-18-.08 Registration of Vehicles is further amended by deleting the word “public” and adding the words “and Security” so that as amended paragraph (7) shall read:

- (7) Registrants who are unable to drive their own vehicles on a particular day should leave explanatory notes displayed on the dashboards (along with their decal number) to alert the Safety and Security Officer.

Authority: T.C.A. §49-8-203.

(08-19)

STATE TECHNICAL INSTITUTE AT MEMPHIS

**CHAPTER 0240-3-19
STUDENT DISCIPLINARY RULES**

REPEALS

Chapter 0240-3-19 Student Disciplinary Rules are repealed in their entirety.

Authority: T.C.A. §49-8-203.

(08-20)

STNORTHEAST STATE TECHNICAL COMMUNITY COLLEGE

**CHAPTER 0240-3-20
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Subparagraph (h) of paragraph (2) of rule 0240-3-20-.06 Traffic and Parking Regulations is amended by deleting the words “of the Student Information Coordinator” and adding the words “of Community Relations” so that as amended subparagraph (h) shall read:

- (h) Visitors and guests receiving citations should return them to the Office of Community Relations, Room P206. No fine will be assessed.

Subparagraph (a) of paragraph (3) of rule 0240-3-20-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that as amended subparagraph (a) shall read:

- (a) The fine for parking and registration violation is:

1. First	\$ 5.00
2. Second	\$10.00
3. Third	\$25.00
4. Fourth and each subsequent ticket	\$50.00

Subparagraph (b) of paragraph (3) of rule 0240-3-20-.06 Traffic and Parking Regulations is further amended by deleting the word "people" and adding the word "students" so that as amended subparagraph (b) shall read:

- (b) All violations of parking in the areas reserved for students with disabilities will result in a fine of \$100.00.

Subparagraph (c) of paragraph (3) of rule 0240-3-20-.06 Traffic and Parking Regulations is further amended by deleting the dollar amount "\$15.00" and adding the dollar amount "\$50.00" so that as amended subparagraph (c) shall read:

- (c) All violations of parking in a Fire Lane will result in a fine of \$50.00.

Authority: T.C.A. §49-8-203.

TENNESSEE STATE UNIVERSITY

CHAPTER 0240-4-5 STUDENT HOUSING RULES

AMENDMENTS

Rule 0240-4-5-.01 Eligibility is amended by adding a new paragraph (5) to the rule so that as amended new rule (5) shall read:

- (5) Students who meet the April 1 housing deadline but do not preregister for classes must claim their rooms within twenty-four (24) hours of the opening of residence halls and apartments.

Authority: T.C.A. §49-8-203.

(08-22)

The proposed rules set out herein were properly filed in the Department of State on the 29th day of August, 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 29th day of December, 2000. (08-11 Through 08-22)

TENNESSEE STUDENT ASSISTANCE CORPORATION - 1640**CHAPTER 1640-1-13
MINORITY TEACHING FELLOWS PROGRAM**

Presented herein are proposed amendments of the Tennessee Student Assistance Corporation submitted pursuant to Tennessee Code Annotated Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Student Assistance Corporation 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 Tennessee Student Assistance Corporation, Suite 1950, Parkway Towers, located at 404 James Robertson Parkway, Nashville, Tennessee 37243-0820 and in the Department of State, 813 Eighth Avenue North, 8th Floor, Snodgrass Tower, Nashville, TN 37219-0310, and must be signed by twenty-five (25) persons who will be affected by the amendment, or submitted by a municipality which will be affected by the amendment, 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 amendment contact: Ron Gambill, Executive Director, Tennessee Student Assistance Corporation, 404 James Robertson Parkway, Suite 1950, Nashville, TN 37243-0820, (615) 741-1346.

The text of the proposed amendment is as follows:

AMENDMENT

Rule 1640-1-13-.05 Loan Amount and Terms, Paragraph (1) is amended by adding the following new sentence at the end:

If the recipient receives other educational assistance for the same period(s), the total assistance including this award is limited to the recipient's cost of attendance, as determined by the college financial aid office.

As amended, Paragraph (1) shall read as follows:

- (1) All loans shall be evidenced by notes payable to the Tennessee Student Assistance Corporation. Awards will be sent to the college financial aid office each quarter or semester in the recipient's name and shall be disbursed on a quarter or semester pro rata basis. The maximum award for a recipient in any fiscal year is \$5,000. If the recipient receives other educational assistance for the same period(s), the total assistance including this award is limited to the recipient's cost of attendance, as determined by the college financial aid office.

Authority: *T.C.A. §49-4-204 and 49-4-706*

The proposed rules set out herein were properly filed in the Department of State on the 29th day of August, 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 29th day of December, 2000. (08-27)

TREASURY DEPARTMENT - 1700

DIVISION OF UNCLAIMED PROPERTY

CHAPTER 1700-2-1

REGULATIONS GOVERNING THE

UNIFORM DISPOSITION OF UNCLAIMED PROPERTY ACT

Presented herein are proposed rules and amendments of the Tennessee Department of Treasury submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate these rules and 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 Unclaimed Property, Tenth Floor, Andrew Jackson State Office Building located at Fifth and Deaderick, Nashville, Tennessee 37243, and in the Administrative Procedures Division of the Department of State, Eighth Floor, William R. Snodgrass Tower, Eighth Avenue North, Nashville, Tennessee 37243, and must be signed by twenty-five (25) persons who will be affected by the rules and amendments, or submitted by a municipality which will be affected by the rules and amendments, 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 and 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 rules and amendments is as follows:

NEW RULES

TABLE OF CONTENTS

1700-2-1-.37 Reports of Safe Deposit Box Contents.

1700-2-1-.37 REPORTS OF SAFE DEPOSIT BOX CONTENTS.

- (1) Any lessor, as defined in Tennessee Code Annotated, Section 45-2-901(4), who removes contents from a safe deposit box, vault, or other safe deposit receptacle in accordance with the procedures set forth in Tennessee Code Annotated, Section 45-2-907 shall report such contents to the State Treasurer by no later than May 1st of the year following the calendar year in which the box is opened. The lessor shall report the contents from such boxes separately from any other type of unclaimed property reportable to the State Treasurer. The State Treasurer shall create a separate and distinct unclaimed property report form for the reporting of safe deposit box contents. The report form shall elicit such information, as the Treasurer deems appropriate including, but not limited to, the following:
 - (a) A listing of the full names of the respective lessees in alphabetical order according to their surnames. The names of the lessees and their respective last known addresses shall appear in horizontal columns.
 - (b) Beside each lessee name, the following information shall be listed:
 1. if more than one lessee of the box exists, the relationship between the lessees;

2. the name and address of any other person who, according to the lessor's records, may have an interest in the box's contents;
 3. the lessee(s) social security number if known to the lessor;
 4. the identifying number used by the lessor for the safe deposit box;
 5. the date the box was opened and inventoried; and
 6. a brief description of the property.
- (2) (a) Every lessor filing a report under this rule shall, at the time of filing such report and with that report, pay or deliver to the State Treasurer the following types of property removed from a safe deposit box:
1. Intangible property including, but not limited to, stocks and bonds;
 2. Coins or currency with a face value of twenty dollars (\$20.00) or less each which are valued at no more than twice the face value; and
 3. Coins or currency with a face value of greater than twenty dollars (\$20.00) each which are valued at one hundred twenty-five percent (125%) or less of face value.
- (b) The coins or currency described in subparagraphs (2)(a)2 and (2)(a)3 above shall not be delivered to the State Treasurer if the same can be deposited to the credit of the lessee in any existing account maintained by the lessor on behalf of the lessee. In such event, the lessor shall deposit the coins or currency to the credit of the lessee, minus any accumulated charges deducted by the lessor pursuant to Tennessee Code Annotated, Section 45-2-907. The lessor shall specify on the report: (i) the cash amount of the coins and currency, (ii) the amount deposited to the lessee's account after deduction of any accumulated charges and (iii) the fact that the funds have been deposited to an existing account of the lessee.
- (c) The coins or currency described in subparagraphs (2)(a)2 and (2)(a)3 shall also not be delivered to the State Treasurer if other property is removed from the respective safe deposit box and held for subsequent sale. Instead, such coins and currency shall be retained until the sale and shall be treated as proceeds from the sale pursuant to paragraph (3) of this rule below.
- (3) All other property removed from a safe deposit box shall not be delivered to the State Treasurer at the time of filing the report. Instead, the lessor shall sell or otherwise dispose of the property in accordance with the procedures set forth in Tennessee Code Annotated, Section 45-2-907. The monetary proceeds resulting from any such sale, after deducting accumulated charges, including a proportionate share of the expense of advertising and conducting the sale, shall be deposited to the credit of the lessee in any existing account maintained by the lessor on behalf of the lessee. If no account exists, the proceeds shall be delivered to the State Treasurer within sixty (60) days of the sale along with the updated report required in paragraph (4) of this rule below.
- (4) Updated Report. After disposition of all contents of a safe deposit box, the lessor shall provide to the State Treasurer an updated report concerning the contents of the box. The updated report shall contain all the information provided in the initial report filed with the Treasurer pursuant to paragraph (1) of this rule above. In addition, the report shall contain the following information for each item of property described in the initial report:
- (a) A statement as to whether the item was returned to the owner, sold or destroyed;
 - (b) The net amount realized from the sale of that item; and

- (c) If the net amount realized from the sale of the item was deposited to the credit of the lessee as provided in paragraph (3) of this rule above, a statement that the amount has been deposited to an existing account of the lessee.
- (5) Submission of Reports to State Treasurer. Notwithstanding any provision of rules 1700-2-1-.04 and 1700-2-1-.05 to the contrary, the reports required in paragraphs (1) and (4) of this rule shall be delivered to the State Treasurer in hardcopy form only. Such reports shall be mailed or delivered to the State Treasurer at such address as the Treasurer shall direct.

Authority: T.C.A. § § 66-29-130, 45-2-907, 66-29-104(4)(A) and 66-29-115(c).

AMENDMENTS

1700-2-1-.04 Reporting Forms is amended by deleting the same in its entirety and by substituting instead the following:

1700-2-1-.04 REPORTING FORMS. Holders shall report unclaimed property on forms prescribed by the State Treasurer. The Treasurer shall provide the form on an Internet web site for holders to download. Holders with less than twenty (20) property owner records shall file the report in paper form or may, at their option, file the report in such electronic media as prescribed by the Treasurer. Holders reporting twenty (20) or more owner records shall file the report on electronic media only. The type of electronic media on which unclaimed property reports may be filed shall be prescribed by the Treasurer and a description thereof shall be provided on an Internet web site for holders to download. Notwithstanding the filing of an unclaimed property report on electronic media, the holder shall provide the verification required in T.C.A. § 66-29-113 in paper form. Such verification shall be submitted with the report.

Authority: T.C.A. § § 66-29-130 and 66-29-113.

1700-2-1-.05 Alternative Reporting Forms Accepted by the State Treasurer is amended by deleting the same in its entirety and by substituting instead the following:

1700-2-1-.05 ALTERNATIVE REPORTING FORMS ACCEPTED BY THE STATE TREASURER. Subject to the prior written approval of the State Treasurer, a holder may file an unclaimed property report in such other alternate electronic media as the Treasurer deems acceptable, provided the signature verification required in T.C.A. § 66-29-113 is filed in paper form.

Authority: T.C.A. § § 66-29-130 and 66-29-113.

1700-2-1-.06 Submission of Reports to State Treasurer is amended by inserting the words “and in such manner” immediately after the word “address” and immediately before the word “as” so that, as amended, the rule shall read:

1700-2-1-.06 SUBMISSION OF REPORTS TO STATE TREASURER. Unclaimed Property Reports should be mailed or delivered to the State Treasurer at such address and in such manner as the Treasurer shall direct.

Authority: T.C.A. § § 66-29-130 and 66-29-113.

1700-2-1-.18 Reports of Miscellaneous Property Held for Another Person is amended by deleting subparagraph (1)(a) in its entirety and by substituting instead the following:

- (a) wages, commissions or other compensation which are not otherwise covered under Tennessee Code Annotated, Section 66-29-136

Authority: T.C.A. § § 66-29-130, 66-29-112 and 66-29-136.

1700-2-1-.18 Reports of Miscellaneous Property Held for Another Person is further amended by deleting subparagraph (1)(n) in its entirety and by redesignating the subsequent subparagraphs accordingly.

Authority: T.C.A. § § 66-29-130 and 66-29-112.

1700-2-1-.20 Delivery of Property to the State Treasurer is amended by deleting the word “Everything” in paragraph (1) and by substituting instead the words, figures and punctuation “Except as provided in Rule 1700-2-1-.37, all property” so that, as amended, the paragraph shall read:

Except as provided in Rule 1700-2-1-.37, all property reported must be delivered to the State Treasurer unless, in his discretion, the State Treasurer determines that it is not in the interest of the State to take custody of the property and authorizes the holder, in writing, to dispose of the property.

Authority: T.C.A. § § 66-29-130 and 66-29-115.

1700-2-1-.20 Delivery of Property to the State Treasurer is amended by deleting paragraph (2) in its entirety and by substituting instead the following:

Holders shall deliver unclaimed shares of stock or mutual funds in such form that future earnings from those shares or funds will be delivered in the form of cash rather than an increase in the number of shares. When there is an option of cash or stock dividends, the holder shall deliver cash.

Authority: T.C.A. § § 66-29-130, 66-29-107 and 66-29-115.

The proposed rules set out herein were properly filed in the Department of State on the 31st day of August, 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 29th day of December, 2000. (08-46)

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PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 1240 - Department of Human Services - Family Assistance Division - Public necessity rules dealing with the Families First program, 8 T.A.R. (August 2000), chapter 1240-1-50, Standard for Need/Income - Filed July 3, 2000; effective through December 15, 2000. (07-06)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in group day care homes licensed by the Department of Human Services, 7 T.A.R. (July 2000), chapter 1240-4-1, Standards for Group Day Care Homes - Filed June 30, 2000; effective through December 12, 2000. (06-38)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in child care centers caring for pre-school children licensed by the Department of Human Services, 7 T.A.R. (July 2000), chapter 1240-4-3, Licensure Rules for Child Care Centers Serving Pre-School Children - Filed June 30, 2000; effective through December 12, 2000. (06-37)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in family day care homes licensed by the Department of Human Services, 7 T.A.R. (July 2000), chapter 1240-4-4, Standards for Family Day Care Homes - Filed June 30, 2000; effective through December 12, 2000. (06-39)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules concerning child care standards for children being cared for in child care centers serving school-age children licensed by the Department of Human Services, 7 T.A.R. (July 2000), chapter 1240-4-6, Licensure Rules for Child Care Centers Serving School-Age Children - Filed June 30, 2000; effective through December 12, 2000. (06-41)
- 1240 - Department of Human Services - Community and Field Services Division - Public necessity rules dealing with the enforcement of licensing violations involving child care agencies which it licenses by the Department of Human Services, 7 T.A.R. (July 2000), chapter 1240-5-11, Procedures Affecting Licenses of Child Welfare Agencies - Filed June 30, 2000; effective through December 12, 2000. (06-40)

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RULEMAKING HEARINGS

DEPARTMENT OF AGRICULTURE - 0080 DIVISION OF FORESTRY

There will be a series of public rulemaking hearings before the Tennessee Department of Agriculture, Division of Forestry, to consider the adoption and promulgation of rules pursuant to Tennessee Code Annotated, (T.C.A.) Section 11-4-301 et seq., Public Chapter 680 of the Acts of 2000, and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 LOCATION	TIME
October 26, 2000	Pellissippi State Technical Community College 10915 Hardin Valley Rd Knoxville, TN 37933 Goins Administration Bldg. Auditorium Parking permitted in open lot #3 (03) ONLY	7:00 p.m. EDT
October 30, 2000	Ellington Agricultural Center Ed Jones Auditorium 440 Hogan Road Nashville, TN 37220	7:00 p.m. CST
November 2, 2000	West Tennessee Experiment Station Room 158 605 Airways Blvd. Jackson, TN 38301	7:00 p.m. CST

Individuals with disabilities who wish to participate in these proceedings or to review these filings should contact ADA Coordinator, Isaac Okoreeh-Baah, L& C Tower, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298). 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.

SUBSTANCE OF PROPOSED RULES

New Rule Chapter 0080-7-2 Silvicultural Best Management Practices (BMP) shall read as follows:

NEW RULES**TABLE OF CONTENTS**

0080-7-2-.01 Identification of Forestry Best Management Practices (BMP) – General
 0080-7-2-.02 BMPs That Prevent Erosion, Soil Loss, and Potential Sedimentation
 0080-7-2-.03 BMPs That Manage the Placement of Logging Debris and Operation of
 Equipment

0080-7-2-.01 IDENTIFICATION OF FORESTRY BEST MANAGEMENT PRACTICES (BMP) – GENERAL

(1) General

(a) Purpose, Scope and Applicability.

This Rule Chapter specifies forestry best management practices (BMP) as required by Public Chapter 680. These are practices that, if implemented properly, would prevent, limit, or eliminate water pollution that might be associated with certain forest resource management activities. BMPs are intended to prevent water pollution that might result from sediment, mechanical and chemical intrusion, or other activity that would adversely impact the aquatic resource. The potential for forestry activities to pollute streams is significantly influenced by factors such as time of year, topography, soil type, vegetative cover, logging technology, and the duration and intensity of rainfall events. Some judgement is, therefore, necessary to relate the choice and installation of BMPs relative to those factors. The following rules provide flexibility in the choice and application of BMPs for purposes of assuring that silvicultural activities do not result in pollution of waters of the State. Guidance and specifications are contained in respective publications of the Department of Agriculture.

(b) Use of 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.

(c) 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

When used in this Rule the following terms have the meanings given below unless otherwise specified:

“Broad-based dip” means a feature constructed into a forest roadbed for achieving effective drainage.

“Culvert” means a conduit through which surface water can flow under roads.

“Log deck/landing” means an area usually less than an acre in size to which logs are skidded to an on-site mill or collected for loading onto trucks for transport out of the woods.

“Outsloping” means a method of rapidly draining road surfaces by tilting the road surface toward the downhill side at the rate of ¼ inch per foot of road width or a 2 to 3 percent outslope.

“Pole ford” means a method of fording soft-bottomed streams by placing poles (small logs) across the stream bottom.

“Sediment control structures” means natural materials, terrain features, or man-made structures that trap and hold sediment. Such structures include straw bale fencing, silt fencing, brush barriers, and sediment traps. Sediment control structures should be installed where necessary to slow the flow of runoff and to trap sediment until vegetation is established on the sediment source. The structures must be maintained, cleaned or replaced until areas of exposed soil are stabilized. Sediment control structures should not be installed in stream channels.

“Sensitive areas” means areas that include but are not limited to fragile soils, sink holes, seeps, landslides, and old gully systems. Activity is not necessarily excluded from these areas, however, caution and judgment must be used when these areas are encountered.

“Skid trail” means a path established by multiple passes used by harvesting equipment to transport logs or trees from the stump to a landing or log deck.

“Streamside management zone (SMZ)” means a designated area that consists of the stream and an adjacent area of varying width where management practices that might impact water quality are modified or restricted. SMZs are typically areas where qualified activities are closely managed rather than areas of total activity exclusion.

“Water bar” means a structure constructed into a temporary road or skid trail to achieve effective drainage.

“Wing ditch” means a water turnout or diversion ditch constructed to move and disperse water away from a road and side ditches into adjacent undisturbed areas so that the volume and velocity of water is reduced on the road surface

0080-7-2-.02 BMPS THAT PREVENT EROSION, SOIL LOSS, AND POTENTIAL SEDIMENTATION

(1) Access Roads.

(a) Access Road Location.

Access roads shall be designed and located to prevent sediment from entering the waters of the State as defined at Tennessee Code Annotated (T.C.A.) § 69-3-102. Methods to prevent sedimentation to streams include, but are not limited to, the following:

1. Minimize the amount of road to be constructed using existing roads where practical.
 2. Locate roads as far from streams and lakes as possible and practical.
 3. Locate roads as far as practical from streamside management zones (SMZs).
 4. Avoid or minimize stream crossings. If crossings are necessary, roads should cross streams as close to right angles as possible.
 - (i) When possible, locate crossings on the straightest section of streams and minimize disruption of normal streamflow.
 - (ii) Design crossings such that disruption of movement of aquatic life is minimized.
 - (iii) Where applicable, approaches to stream crossings should climb away from streams to minimize erosion during high water and should be graveled to prevent washing and rutting.
 - (iv) Where practical, broad-based dips and wing ditch turnouts should be installed to turn water off roads before entering the stream.
 - (v) When fords are used:
 - (I) Fords should be located where streambanks are low.
 - (II) Fords should have a solid bottom; if not, use a pole ford or other appropriate cover. Cover should be removed after use.
 - (vi) When culverts are used:
 - (I) Culvert size should accommodate the area to be drained.
 - (II) Installation of culverts should minimize disturbance of stream channels and avoid sloughing of streambanks.
 - (vii) When bridges are used:
 - (I) Bridges should be located across narrow points on firm soils.
 - (II) Care should be taken to protect banks from sloughing when constructing and removing temporary bridges.
 5. Avoid sensitive areas that could interfere with drainage and cause soil compaction or erosion.
- (b) Access Road Construction.

Access roads shall be constructed to prevent sediment from entering the waters of the State as defined at T.C.A. § 69-3-102. Methods to prevent sedimentation to streams include, but are not limited to, the following:

1. To the extent possible, construct and revegetate new roads several weeks or longer in advance of logging.
2. Avoid road construction during periods of wet weather.
3. Construct roads on grades of 2 to 12 percent where possible. Runoff from roads should not directly discharge into a stream channel. Runoff from stream crossings should be minimized. Control runoff from roads using techniques such as varying the slope of the road, crowning, outsloping, wing ditches, sediment traps, sediment control structures, broad-based dips, rolling dips, water bars and cross drain culverts and other measures recommended by the Department of Agriculture. Steeper grades are acceptable for short distances provided additional attention is given to water control/drainage structures.
4. When possible, trees and brush cleared for road corridors should be pushed to the downhill side of the road to assist in trapping sediment.
5. Avoid excessive soil disturbance during road construction.
6. Revegetate exposed soil in potential problem areas (i.e.: culverts, stream crossings, fill areas).
7. In association with wetlands:
 - (i) Design the road fill with bridges, culverts or other drainage structures to prevent the restriction of expected flood flows.
 - (ii) Remove all temporary fills in their entirety and restore the area to its original elevation.

(c) Road Retirement.

Access roads shall be retired in such a way as to prevent sediment from entering the waters of the State as defined at T.C.A. § 69-3-102. Methods to prevent sedimentation to streams include, but are not limited to, the following:

1. Water bars or other drainage structures should be constructed immediately after active logging has ceased. If logging will be delayed for a substantial period of time, temporary drainage and erosion control structures should be constructed.
2. Upon completion of logging, remove temporary bridges, culverts, and pole fords; remove sediment and debris from dips, ditches and culverts; and revegetate problem areas.
3. Use lime, fertilizer, mulch, and/or seed when needed to prevent soil erosion. Amounts should be based on recommendations from the Department of Agriculture or the University of Tennessee Agricultural Extension Service.

(2) Streamside Management Zones (SMZ).

- (a) Streamside management zones shall be designed and managed along perennial and intermittent streams, lakes, and impoundments to prevent sediment from entering waters of the State. Methods to prevent sedimentation to streams include, but are not limited to, the following:
 - 1. Establish SMZs along any stream or water body where the potential exists for the movement of sediment into stream or waterbody. The width of SMZs should be a minimum distance of 25 feet from the disturbed area to the stream for zero percent slope and 20 additional feet for each additional 10 percent of slope. This applies to both sides of the stream (total minimum width of 50 feet). In association with wetlands, establish SMZs at least 50 feet in width along both sides of all streams and open water (total minimum width of 100 feet).
 - 2. Do not remove any trees within an SMZ if such removal would result in soil potentially getting into stream. If trees can be harvested without risk of soil loss, maintain 50 to 75 percent of the vegetation canopy shading a perennial stream.
 - 3. Avoid operating any harvesting equipment or vehicles within an SMZ. Whenever possible, timber harvested within an SMZ should be pulled or winched out.
- (3) Locating and Constructing Log Landings.
 - (a) Log landings shall be designed and located to prevent sediment from entering waters of the State. Methods to prevent sedimentation to streams include, but are not limited to, the following:
 - 1. If correctly located, use existing landings from previous timber harvests.
 - 2. Locate landings outside of SMZs and away from stream channels.
 - 3. Slope landings to allow for drainage.
 - 4. Keep sawdust, chips and other residues away from drains where runoff may wash the material into streams.
 - 5. Revegetate landings if they pose a potential water quality problem.
 - 6. Install drainage and sediment control structures to divert run-off if needed.
- (4) Locating and Constructing Skid Trails.
 - (a) Skid trails shall be located to prevent sediment from entering waters of the State. Methods to prevent sedimentation to streams include, but are not limited to, the following:
 - 1. Minimize the number of skid trails; use existing trails where appropriate.
 - 2. Construct skid trails on grades of 2 to 30 percent where possible. Control runoff from trails so that it does not directly discharge into a stream channel. This may be accomplished by using techniques such as varying the slope of the trail, wing ditches, sediment traps, sediment control structures, and other measures recommended by the Tennessee Department of Agriculture. Steeper grades are acceptable for short distances provided additional attention is given to water control/drainage structures.
 - 3. Runoff from stream crossings should be prevented. Avoid crossing streams, drains, and other wet areas; skid away from streams and drains. If crossing streams and major drains is unavoidable, use hard bottom fords, culverts, pole fords or simple bridges.

4. Avoid operating skidders and other equipment directly in streams and major drains.
5. Avoid skidding directly up or down hill; operators should slant the course and follow a “zig-zag” pathway, if possible.
6. Upon completion of logging, remove temporary bridges and culverts; remove sediment and debris from dips, ditches and culverts; and revegetate problem areas.
7. Use lime, fertilizer, mulch, and/or seed when needed to prevent soil erosion. Amounts should be based on recommendations from the Tennessee Department of Agriculture or the University of Tennessee Agricultural Extension Service.

0080-7-2-.03 BMPS THAT MANAGE THE PLACEMENT OF LOGGING DEBRIS AND OPERATION OF EQUIPMENT.

- (1) Logging debris and operation equipment shall be managed to prevent sediment or other materials from entering waters of the State. This includes, but is not limited to, the following:
 - (a) Disposal of Trees, Tree Tops and Branches.
 1. Trees felled in or across streams should be dragged out in a manner that prevents channel and stream bank disturbance.
 2. Tree tops should be pulled far enough back to prevent being washed into streams during high water.
 3. Trees and tree tops should not be dragged down a stream channel.
 4. Root wads in banks should be left in place.
 - (b) Use and Maintenance of Logging Equipment.
 1. When available, use low ground pressure tires or skidders and concentrate skidding as much as possible on a few primary skid trails to minimize site disturbance.
 2. Prevent oil and fuel spills. If a spill occurs, clean up all spilled materials, contaminated soil and dispose of both properly, as soon as possible, per guidelines of the Tennessee Department of Environment and Conservation.
 3. Limit ruts to a depth that can be fixed with equipment available on the logging site.

Authority: *Tennessee Code Annotated Section 11-4-301 et seq., and Public Chapter 680 of the Acts of 2000.*

OTHER INFORMATION

The Division of Forestry has prepared a set of draft rules for public review and comment. Copies of the draft rules are available for review at the following locations:

Tennessee Department of Agriculture

Division of Forestry
312 Tusculum Blvd.
Greeneville, TN 37745
(423) 636-8805

Division of Forestry
2416 Fletcher Luck Lane
Knoxville, TN 37916
(865) 594-6432

Division of Forestry
5530 Highway 153
Hixson, TN 37343
(423) 634-3091

Division of Forestry
390 So. Lowe Street, Suite 10
Cookeville, TN 38501-4702
(931) 526-9502

Division of Forestry
3497 Church Street
Burns, TN 37029
(615) 797-3117

Division of Forestry
220 Eastern Shores Drive
Lexington, TN 38351
(901) 968-6676

Tennessee Department of Environment and Conservation

Environmental Assistance Center
2510 Mt. Moriah, Suite E 645
Perimeter Park
Memphis, TN 38115-1520
(901) 368-7939

Environmental Assistance Center
1221 South Willow Avenue
Cookeville, TN 38501
(931) 432-4015

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

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

Environmental Assistance Center
711 R. S. Gass Boulevard
Nashville, TN 37243
(615) 687-7000

Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville, TN 37921-5602
(423) 594-6035

Environmental Assistance Center
2484 Park Plus Drive
Columbia, TN 38401
(931) 380-3371

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

The "DRAFT" rules may also be accessed for review using <http://www.state.tn.us/environment/new/htm> to locate the Department of Environment and Conservation's World Wide Web Site and www.state.tn.us/agriculture/forestry/forestry.html to locate the Department of Agriculture's World Wide Web Site.

Copies are also available at the respective Nashville Central Offices (see addresses below).

Tennessee Department of Environment and Conservation
Division of Water Pollution Control
Mr. Chris Moran
6th Floor, L & C Tower
401 Church Street
Nashville, TN 37243
(615) 532-0672
Fax (615) 532-0503

Tennessee Department of Agriculture
Division of Forestry
Mr. Ken Arney
Ellington Agricultural Center
Nashville, TN 37204
(615) 837-5411
Fax (615) 837-5003

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearings. In addition, written comments may be submitted prior to or after the public hearings to either of the above two addresses. However, such written comments must be received by 4:30 PM CST, November 17, 2000 in order to assure consideration.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-36)

ALCOHOLIC BEVERAGE COMMISSION - 0100

There will be a hearing before the Tennessee Alcoholic Beverage Commission to consider the promulgation of rules pursuant to T.C.A. §57-1-209; 57-3-104(C)(4); 57-3-710, 57-4-201(a)(2), and 57-4-203(d)(5). 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 Suite 300 of the Capitol Boulevard Building located at 226 Capitol Boulevard, Nashville, Tennessee at 9:30 a.m. on October 30, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Alcoholic Beverage Commission 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 Tennessee Alcoholic Beverage Commission to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Alcoholic Beverage Commission's ADA Coordinator at 226 Capitol Boulevard, Suite 300; Nashville, Tennessee 37243-0755; telephone number (615) 741-1602.

SUBSTANCE OF PROPOSED RULES

Rule 0100-1-.03, Conduct of Business, is amended by adding the following new subsection after 0100-1-.03(18), so that, as amended the rule shall read:

In those jurisdictions which have approved the sale of liquor by the drink by referendum, hotels, clubs, zoological institutions, museums, motels, convention centers, restaurants, community theaters, historic interpretive centers, urban park centers, commercial passenger boat companies, historic mansion house sites, historic performing arts centers, passenger trains, premiere type tourist resorts, public aquariums, aquarium exhibition facilities, terminal building of a commercial air carrier airport, and sport authority facilities which are licensed under T.C.A. §57-4-101 may sell and or dispense alcoholic beverages, wine and malt beverages between the hours of 10:00 o'clock a.m. (10:00 a.m.) and twelve o'clock (12:00) noon on Sundays.

Authority: T.C.A. §§57-1-209; 57-3-104(c); 57-3-710; 57-4-201(a)(2), and 57-4-203(d)(5).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-29)

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of new rules and repeal of 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 18th 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

NEW RULES

GENERAL RULES GOVERNING CHIROPRACTIC THERAPY ASSISTANTS

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0260-5-.04	Qualifications for Certification	0260-5-.12	Continuing Education
0260-5-.05	Procedures for Certification	0260-5-.13	Professional Ethics
0260-5-.06	Fees	0260-5-.14	Disciplinary Action and Civil Penalties
0260-5-.07	Application Review, Approval, Denial, Inter-views	0260-5-.15	Certificate
0260-5-.08	Examination	0260-5-.16	Change of Address and/or Name
		0260-5-.17	Advertising

0260-5-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meanings ascribed to them:

- (1) Advertising - Includes, but is not limited to, business solicitations, with or without limiting qualifications, in a card, sign, or device issued to a person; in a sign or marking in or on any building; or in any newspaper, magazine, directory or other printed matter. Advertising also includes business solicitations communicated by individual, radio, video, or television broadcasting or any other means designed to secure public attention.
- (2) Applicant - Any individual seeking certification by the board who has submitted an official application and paid the application fee.
- (3) Administrative Revocation - An administrative action which renders a certificate holder unable to lawfully continue using the title chiropractic therapy assistant, or facsimile thereof, until specific requirements are met. It is not a formal disciplinary action by the board and applies only when an individual fails to timely renew his/her certificate.
- (4) Board - The Tennessee Board of Chiropractic Examiners.
- (5) Board Administrative Office - The office of the Unit Director assigned to the board located at First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010.
- (6) Board Designee - Any person who has received a written delegation of authority from the board to perform board functions subject to review and ratification by the full board where provided by these rules.
- (7) Certificate - Document issued to any applicant who successfully completes the certification process. The certificate takes the form of an “artistically designed” certificate as well as other versions bearing an expiration date.
- (8) Closed Files - An administrative action which renders an incomplete or denied file inactive
- (9) Department - Tennessee Department of Health.

- (10) Division—The Division of Health Related Boards, Tennessee Department of Health, from which the board receives administrative support.
- (11) Fee - Money, gifts, services or anything of value offered or received as compensation in return for rendering services, also, the fees required by these rules.
- (12) Good Moral Character - The quality of being well regarded in personal behavior and professional ethics.
- (13) HRB - When the acronym HRB appears in the text of these rules, the HRB represents The Division of Health Related Boards.
- (14) Intern - Candidate for licensure who has completed core education and examination and is prepared for internship.
- (15) Internship - Performing chiropractic therapy assistant duties under direction of a supervisor for the purpose of receiving practical training in providing physical agent modalities and rehabilitation.
- (16) Person - Any individual, firm, corporation, partnership, organization, or body politic.
- (17) Physician - A chiropractic, medical or osteopathic physician licensed in the state of Tennessee.
- (18) Proficiency Certificate - Document that certifies completion of core education and examination that prepares a candidate for internship.
- (19) Registrant - Any person who has been lawfully issued a certificate.
- (20) Supervision - The ongoing, direct review, for the purpose of training or teaching, by a licensed chiropractic, medical or osteopathic physician, or chiropractic therapy assistant supervisor who monitors the performance of an intern. The supervisor provides regular documented face-to-face guidance and instruction with respect to the skills and competencies of the person supervised.
- (21) Use of a title of description - To hold oneself out to the public as having a particular status by means of stating on signs, mailboxes, address plates, stationery, announcements, business cards, or other means of professional identification.
- (22) Written evidence - Includes, but is not limited to written verification from supervisors or other professional colleagues familiar with the applicant's work.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106 and 63-4-123.

0260-5-.02 SCOPE OF PRACTICE. Any person who possesses a valid unsuspended and unrevoked certificate issued by the Board has the right to use the title certified chiropractic therapy assistant. No other person shall assume this title on any work, letter, sign, figure, advertisement, or device to indicate that the person using the same is a certified chiropractic therapy assistant. The work performed includes offering physical agent modalities and rehabilitation advice and services to the public, specifically and only on orders from a duly licensed physician, or physical therapist.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-108, 63-4-101, 63-4-102, 63-4-106, 63-4-107, 63-4-122 and 63-4-123.

0260-5-.03 NECESSITY OF CERTIFICATION.

- (1) Prior to engaging in practice as a chiropractic therapy assistant in Tennessee, a person must hold a current Tennessee proficiency certificate or certification, as such.
- (2) It is unlawful for any person who is not certified in the manner prescribed in T.C.A. § 63-4-123 and these rules to present himself/herself as a certified chiropractic therapy assistant or to hold himself/herself out to the public as being certified by means of using a title on signs, mailboxes, address plates, stationery, announcements, telephone listings, business cards, or other instruments of professional identification.
- (3) A chiropractic therapy assistant is one who serves the public only on the orders of a licensed physician, and as such the practice is restricted to those persons properly credentialed. Persons engaging in practice as a chiropractic therapy assistant without being credentialed by the board are in violation of T.C.A. § 63-4-123.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-123, 63-4-101, 63-4-106 and 63-4-123.

0260-5-.04 QUALIFICATIONS FOR CERTIFICATION. Prior to submitting an application each of the following qualifications must be met by a candidate.

- (1) To qualify for a Proficiency Certificate as a chiropractic therapy assistant an individual must:
 - (a) Be at least 18 year of age.
 - (b) Be of good moral character.
 - (c) Education.
 1. High school graduate or equivalent
 2. Completion of a minimum combined total of fifty (50) hours of instruction approved by any board member or board designee, subject to full board approval, and which shall include but not be limited to such subject material as anatomy, physiology, patient protection, safety, emergency procedures, professional boundaries training, therapy, and rehabilitation techniques.
 3. Educational requirements must be completed prior to the date of examination.
 - (d) Examination - Pass to the satisfaction of the board an examination conducted to determine fitness for practice as a chiropractic therapy assistant intern under direct supervision pursuant to rule 0260-5-.10.
- (2) Chiropractic Therapy Assistant Certification
 - (a) Hold a current chiropractic therapy assistant proficiency certificate; and
 - (b) During the first year after obtaining a certificate of proficiency, each holder must provide proof of 1,200 hours of clinical internship under direct supervision. The supervisor is required to provide the Board of Chiropractic Examiners a report concerning the certificate holder's performance in each area of internship on forms provided by the board to become certified as a chiropractic therapy assistant.
 - (c) Unless the Board revokes a proficiency certificate, such certificate shall expire 365 days after the date of issuance.

- (d) If a holder of a proficiency certificate fails to submit evidence of completing 1,200 hours on or before the expiration date, the individual's file will be closed.
- (3) Certification by Criteria (Reciprocity/Endorsement)
- (a) Be at least 18 years of age.
 - (b) Be of good moral character.
 - (c) High school graduate or equivalent.
 - (d) An applicant requesting certification by criteria (reciprocity/endorsement) must be duly licensed or certified as a chiropractic therapy assistant in another state, or hold certification with minimum equivalent training as determined by the Board. A designee of the board will approve all endorsement applications to ensure minimum equivalency.
 - (e) A letter of good standing must be provided from the state or board in which certification is held along with licensure criteria and educational training to ensure minimum equivalency.
- (4) Certification by Grandfathering
- (a) Any person who, as of the effective date of these rules, is practicing as a chiropractic therapy assistant in a physician's office, and can verify that he/she has been doing so for any nine (9) consecutive months prior to January 1, 2001, may be certified immediately after Board receipt, review and approval of:
 1. a completed application, a current photograph and the non-refundable application fee as specified in 0260-3-.06, and;
 2. official verification, sent directly to the Board from the supervising physician(s), of the applicant having worked as a chiropractic therapy assistant in a physician's office for the required nine (9) consecutive months, and;
 3. a completed state board examination with a minimum score of 75.
 - (b) Grandfather applicants will be allowed one (1) re-examination to achieve the minimum score before having to apply as a new proficiency or reciprocity/endorsement applicant.
 - (c) Applications for grandfathering will be accepted and reviewed for twelve (12) months from the effective date of these rules. After that date only applications by educational requirements or reciprocity will be accepted.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106 and 63-4-123.

0260-5-.05 PROCEDURES FOR CERTIFICATION. To become certified as a chiropractic therapy assistant in Tennessee, a person must comply with the following procedures and requirements.

- (1) Proficiency Certification
 - (a) An application packet shall be requested from the board's administrative office.

- (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and these rules to the board's administrative office.
 - (c) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application or the file will be closed.
 - (d) An applicant shall submit with his/her application a signed passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant on the back of the photograph.)
 - (e) It is the applicant's responsibility to provide evidence that he/she has completed a minimum combined total of 50 hours of education approved by the board. The education requirements contained in these rules must be completed prior to the date of the examination for proficiency certification.
 - (f) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violation.
 - 2. The denial of certification application by any state or the discipline of a health care certificate in any state.
 - 3. Loss or restriction of certification.
 - 4. Any civil judgement or civil suit settlement in which the applicant was a party defendant, including without limitation, actions involving malpractice, breach of contract, antitrust activity, or any other civil action remedy recognized under the country's or state's statutory, common or case law.
- (2) Certification by reciprocity/endorsement
- (a) If an applicant holds or has ever held a chiropractic therapy assistant's certificate in another state or its equivalent, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of certification) from each such licensing board which indicates the applicant holds or held an active certificate and whether it is in good standing presently or was at the time it became inactive.
 - (b) If a certificate from another state or board is not in good standing or is inactive, the applicant cannot be certified under the reciprocity/endorsement rule.
 - (c) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.
 - (d) Personal resumes are not acceptable and will not be reviewed.
 - (e) Application review and certification decisions shall be governed by rule 0260-5-.07.
 - (f) Applicants for reciprocity/endorsement carry the burden of proof by a preponderance of the evidence that his/her course work, supervision, and experience are equivalent to the board's requirements.
 - (g) An application packet shall be requested from the board's administrative office.

- (h) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and these rules to the board's administrative office.
 - (i) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application or the file will be closed.
 - (j) An applicant shall submit with his/her application a signed passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant on the back of the photograph.)
 - (k) It is the applicant's responsibility to provide evidence that he/she has completed a minimum combined total of 50 hours of education approved by the board. The education requirements contained in these rules must be completed prior to the date of the examination for proficiency certification.
 - (l) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violation.
 - 2. The denial of certification application by any state or the discipline of a health care certificate in any state.
 - 3. Loss or restriction of certification.
 - 4. Any civil judgement or civil suit settlement in which the applicant was a party defendant, including without limitation, actions involving malpractice, breach of contract, antitrust activity, or any other civil action remedy recognized under the country's or state's statutory, common or case law.
- (3) Certification by grandfathering
- (a) An application packet shall be requested from the board's administrative office.
 - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and these rules to the board's administrative office.
 - (c) Applications will be accepted throughout the year. Supporting documents requested in these instructions must be received in the board office within 60 days of receipt of the application or the file will be closed.
 - (d) An applicant shall submit with his/her application a signed passport type photograph taken within the preceding 12 months. (The photo is to be signed by the applicant on the back of the photograph.)
 - (e) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violation.
 - 2. The denial of certification application by any state or the discipline of a health care certificate in any state.

3. Loss or restriction of certification.
4. Any civil judgement or civil suit settlement in which the applicant was a party defendant, including without limitation, actions involving malpractice, breach of contract, antitrust activity, or any other civil action remedy recognized under the country’s or state’s statutory, common or case law.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-106 and 63-4-123.

0260-5-.06 FEES.

The fees are as follows:

- (a) Application fee—A non-refundable fee to be paid by all proficiency applicants, reciprocity/endorsement applicants, and grandfather applicants. It must be paid each time an application is filed.
 - (b) Certification fee—A non-refundable fee to be paid prior to the issuance of the “artistically designed” certificate.
 - (c) Examination fee—A non-refundable fee paid each time a person requests to take the state board examination or portion thereof.
 - (d) Late Renewal fee—A non-refundable fee to be paid when an individual fails to timely renew a certificate.
 - (e) Renewal fee—A non-refundable fee to be paid by all certificate holders. This fee also applies to individuals who reactivate a retired or lapsed certificate.
 - (f) Reciprocity/Endorsement fee—A non-refundable fee to be paid at the time of application in addition to the application fee for those seeking certification by criteria.
 - (g) Replacement certificate fee—A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed “artistically designed” certificate.
 - (h) State Regulatory fee—To be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees shall be established by the board. Fees may be reviewed and changed at the discretion of the board.
 - (3) All fees must be submitted to the board’s administrative office by certified or personal check or money order. Checks or money orders are to be made payable to the Board of Chiropractic Examiners.

(4) Fee Schedule:	Amount
Proficiency	
Application	\$ 50.00
Examination (State Board)	\$150.00
Certification	
Late Fee	\$ 50.00

Certificate Fee (initial)	\$150.00
Renewal (biennial)	\$ 75.00
Reciprocity	\$100.00
Replacement Certificate	\$ 25.00
State Regulatory (biennial)	\$ 10.00

Authority: T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-107, 63-1-108, 63-1-112, 63-4-103, 63-4-105, 63-4-106, and 63-4-123.

0260-5-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS.

- (1) An application packet shall be requested from the board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the board's Unit Director or designee.
- (3) If an application is incomplete when received in the board's administrative office, a deficiency letter will be sent to the applicant notifying him/her of the deficiency.
 - (a) The requested information must be received in the board's administrative office on or before the 30th day after the applicant's receipt of the notification.
 - (b) If the requested information is not received within the thirty (30) day period, the application file shall be closed and a new application must be submitted pursuant to the rules governing the application process, including another payment of all fees.
- (4) An individual who has a complete application (application, fees, and all supporting documents) on file in the board's administrative office will be scheduled to write the examination.
- (5) If a completed application is denied by the board designee and ratified as such by the board, the action shall become final and the following shall occur.
 - (a) A notification of the denial shall be sent by the board's administrative office by certified mail, return receipt requested, specifying reasons for denial such as incomplete information, unofficial records, examination failure, or other matters judged insufficient for certification and such notification shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - (c) An applicant has a right to a contested case hearing only if the certification denial is based on subjective or discretionary criteria.
 - (d) An applicant may be granted a contested case hearing if certification denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the board's administrative staff, the certification application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the board within 30 days of the receipt of the notice of denial from the board.

- (6) The board at its discretion may delay a decision on eligibility to take the written examination for any applicant for whom the board wishes additional information for the purpose of clarifying information previously submitted. This request is to be in writing and shall be made within ten (10) days following the date of the official review of the application.
- (7) If the board finds it has erred in the issuance of proficiency certificate or certificate, the board will give a written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of certification within thirty (30) days from the date of receipt of notification. If the applicant does not concur with the stated reason and the intent to revoke the certificate of proficiency or certificate, the applicant shall have the right to proceed according to rule 0260-5-.07(5).
- (8) Whenever requirements for certification are not completed within thirty (30) days from the date of initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for certification only upon the filing of a new application and payment of all appropriate fees.
- (9) Abandonment of Application
 - (a) An application shall be deemed abandoned and closed if the application has not been completed by the applicant within sixty (60) days after it was initially reviewed.
 - (b) The above action must be ratified by the board or its designee.
 - (c) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application.
- (10) If an applicant requests an entrance for certification, and after administrative review, wishes to change that application to a different type of entrance, a new application, with supporting documents and an additional application fee must be submitted, e.g., reciprocity/endorsement to examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 4-5-301, 63-4-106, 63-4-114, and 63-4-123.

0260-5-.08 EXAMINATION.

- (1) State Board Examination - Applicants applying for proficiency certification will be required to successfully complete the state board examination with a minimum score of 75.
- (2) Re-examination - Applicants who fail the state board examination shall be entitled to retake the examination upon receipt of a written request and payment of examination fee, pursuant to rule 0260-5-.06, in the board's administrative office.
- (3) Examinations and re-examinations may be performed by a testing center or may be delegated as determined by the board.
- (4) If an applicant neglects, fails, or refuses to take or retake the examination or fails to pass the examination for certification under these rules within 3 months after being deemed eligible to sit for the state examination, the application will be denied. However, such an applicant may thereafter make a new application accompanied by all the required fees and supporting documents. The application shall be accompanied by all the required fees and supporting documents. The applicant shall meet the requirements in effect at the time of the new application.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-103, 63-4-106, 63-4-107, 63-4-110 and 63-4-123.

0260-5-.09 RENEWAL OF CERTIFICATION.

- (1) Renewal Application
 - (a) The due date for a certificate renewal is the expiration date indicated on the initial certificate of registration or renewal certificate.
 - (b) A renewal application form will be mailed to each individual registered with the board to the last address provided to the board. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all the requirements for renewal.
 - (c) A certificate issued pursuant to these rules is renewable by the expiration date. To be eligible for renewal an individual must submit to the Division of Health Related Boards on or before the expiration date the following:
 1. A completed and signed renewal application form.
 2. The renewal and state regulatory fees as provided in rule 0260-5-.06.
 - (d) Any individual who fails to comply with the certification renewal requirements pursuant to T.C.A. §63-1-107 shall be notified that his/her certificate has been automatically revoked.
- (2) Reinstatement of Administratively Revoked Certificate
 - (a) Reinstatement of a certificate administratively revoked pursuant to these rules may be accomplished upon meeting the following conditions:
 1. Payment of all past due renewal fees; and
 2. Payment of the late renewal fee provided in rule 0260-5-.06.
 - (b) Any individual who is sent a notice by certified mail of administrative revocation may, within 30 days of receipt of the notice pursuant to rule 0260-5-.11, execute and file in the board's administrative office an affidavit of retirement which will effectively retire the license as of the 30th day after the renewal date.
 - (c) Renewal issuance decisions pursuant to this rule may be made administratively, upon review by the board or the board's designee.
 - (d) Anyone submitting a signed renewal form or letter which is found to be untrue may be subjected to disciplinary action as provided in rule 0260-5-.14.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-4-103, 63-4-106, 63-4-114, and 63-4-123.

0260-5-.10 SUPERVISION.

- (1) Individuals who are issued a certificate as a chiropractic therapy assistant must act only on orders by a Tennessee licensed physician.
- (2) Intern supervision is for the purpose of training or teaching, by an approved supervisor who monitors the performance of an individual. The supervisor provides regular documented face-to-face guidance and instructions with respect to the skills and competencies of the person supervised.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-102, 63-4-103, 63-4-106, 63-4-121 and 63-4-123.

0260-5-.11 RETIREMENT AND REACTIVATION OF CERTIFICATE.

- (1) A person who holds a current certificate and does not intend to serve as a “certified chiropractic therapy assistant” may apply to convert an active certificate to retired status. An individual who holds a retired certificate will not be required to pay the renewal fee.
- (2) A person who holds an active certificate may apply for retired status in the following manner:
 - (a) Obtain an affidavit of retirement form, complete, and submit to the board’s administrative office.
 - (b) Submit any documentation, which may be required to the board’s administrative office.
- (3) Certification holders whose certificate has been retired, may reenter active status by doing the following:
 - (a) Submit a written request for certification reactivation to the board’s administrative office.
 - (b) Pay the certification renewal fees and state regulatory fees as provided in rule 0260-5-.06. If retirement reactivation is requested prior to the expiration of one year from the date of retirement, the board will require payment of the late renewal fee and past due certification renewal fees.
 - (c) Obtain continuing education hours not attended while certificate was in retired status. All missed education hours due to retirement must be caught up. Education hours shall adhere to rule 0260-5-.12(2).
- (4) Certification reactivation applications shall be treated as certification applications and review decisions shall be governed by rule 0260-5-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106 and 63-4-123.

0260-5-.12 CONTINUING EDUCATION.

- (1) Basic requirements—The Board of Chiropractic Examiners requires each certificate holder registered with the board to complete six (6) clock hours of continuing education each calendar year.
- (2) Acceptable Continuing Education—To be acceptable continuing education, the course shall be approved by the Board of Chiropractic Examiners. The board shall explore and approve appropriate classroom and structured distance learning opportunities.
- (3) Documentation
 - (a) Each candidate holder must retain proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of four (4) years from the end of the calendar year 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.
 - (b) The individual must, within thirty (30) days of a request from the board, provide evidence of continuing education activities. Such evidence must be by submission of one or more of the following:

1. Certification of the certificate holder's attendance at continuing education program(s). The certificate must include the following:
Continuing education program's sponsor, date, clock hours, awarded continuing education units (CE units must be converted to clock hours), program title, certificate holder's name, certificate number and social security number.
 2. An original letter on official stationery from the continuing education program's sponsor, date, clock hours awarded (CE units must be converted to clock hours), program title, certificate holder's name, certificate number and social security number.
- (c) If a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the board will request a written description of the training and how it applies to the practice of chiropractic therapy assistant. If the board determines that the training can not be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.
- (4) Continuing education credit will not be allowed for the following:
- (a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.
 - (b) Membership in, holding office in, or participation on boards of committees, business meetings of professional organizations, or banquet speeches.
 - (c) Training specifically related to policies and procedures of an agency.
 - (d) Education content that is for practice building, practice management, patient acquisition or reimbursement related. Education should focus on clinical and/or scientific content, with an emphasis on patient diagnosis, treatment, protection, basic science, research developments, physical therapy procedures, or rehabilitation techniques.
- (5) Revocation of certificate for non-compliance with continuing education.
- (a) If the continuing education requirement is not met, but the renewal fees have been paid, a letter is issued to the individual requiring him/her to show cause why his/her certificate should not be revoked for failure to comply with the continuing education requirements. Such letter will specify the individual's right to a contested case hearing on this matter.
 - (b) The certificate holder has thirty (30) days from the date of notification to respond to the show cause letter. If certificate holder does not respond to the show cause letter the certificate will be administratively revoked with such revocation to be ratified by the board.
- (6) Continuing Education for Reactivation of Retired or Revoked certificate.
- (a) Reactivation of Retired Certification
 1. An individual whose certificate has been retired for one (1) year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reactivation. Those hours will be considered replacement hours and cannot be counted toward meeting the calendar year end requirement.

2. Any individual requesting reactivation of a certificate which has been retired for more than one year must submit, along with the reactivation request, verification which indicates the attendance and completion of six (6) hours of continuing education for each year the certificate was retired. The continuing education hours must have begun and been successfully completed prior to the date of reactivation.
- (b) Reinstatement of a Certificate.
1. No person whose certificate has been revoked for failure to comply with continuing education may have his/her certificate reinstated without complying with all the requirements. The required clock hours of continuing education must have begun and be successfully completed before the date of reinstatement.
 2. A certificate which has lapsed for nonpayment of fees may not be reinstated without payment of all accumulated renewal fees, as well as payment of a late renewal fee, and submission of evidence that appropriate continuing education requirements have been met. Those hours will be considered replacement hours and cannot be counted toward meeting the calendar year end requirement.
- (7) Violations
- (a) Any certificate holder who falsely certifies attendance and completion of the required hours of continuing education requirements may be subject to disciplinary action.
 - (b) Any licensee who fails to present proof of obtaining the required continuing education hours will have their license processed for administrative revocation following the audit.
- (8) Waiver of Continuing Education
- (a) The board may grant a waiver of the need to attend and complete the required hours of continuing education if it can be shown to the board that compliance is or was beyond the physical capabilities of the person seeking the waiver.
 - (b) Waivers will be considered only on an individual basis and may be requested by submitting the following items to the board's administrative office.
 1. A written request for a waiver which specifies the requirement which is sought to be waived, and a written and signed explanation of the reason for the request.
 2. Any documentation which supports the reason for waiver requested or which is subsequently requested by the board.
 - (c) A waiver approved by the board is effective only for the calendar year for which the waiver is sought.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, 63-4-114 and 63-4-123.

0260-5-.13 PROFESSIONAL ETHICS. Immoral, unprofessional, unethical, or dishonorable conduct shall include, but not be limited to, the following:

- (1) Conduct designed to, or likely to deceive, or harm the public.
- (2) Being a party to or aiding and abetting the violation of these regulations or the laws of the State of Tennessee regulating the practice of chiropractic therapy assistants.

- (3) Conduct interpreted to be sexual contact or physically inappropriate in a clinical setting, or inappropriate touching of the genitalia, anus, or breast.
- (4) The intentional or negligent use of any false, fraudulent, or forged statement, writing or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice in connections with any of the certification requirements of T.C.A. § 63-4-123.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-101, 63-4-106, 63-4-114, and 63-4-123.

0260-5-.14 DISCIPLINARY ACTIONS AND CIVIL PENALTIES.

- (1) Upon a finding by the board that a chiropractic therapy assistant has violated any provision of the T.C.A. § 63-4-123 or the rules promulgated thereto, the board may impose any of the following actions separately or in any combination deemed appropriate to the offense.
 - (a) Advisory Censure—This is a written action issued to the chiropractic therapy assistant for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (b) Formal censure or reprimand—This is a written action issued to a chiropractic therapy assistant for one time and less severe violations. It is a formal disciplinary action.
 - (c) Probation—This is a formal disciplinary action which places a chiropractic therapy assistant on close scrutiny for a fixed period of time. This action may be combined with conditions which must be met before probation will be lifted and/or which restricts the individual's activities during the probationary period.
 - (d) Certification Suspension—This is a formal disciplinary action which suspends an individual's right to work under certification for a fixed period of time. It contemplates the reentry of the individual into the certification previously issued.
 - (e) Certification Revocation—This is the most severe form of disciplinary action which removes an individual from working under certification by terminating the certification previously issued. If revoked, it relegates the violator to the status he possessed prior to application for certification. However, the board may in its discretion allow the reinstatement of a revoked certificate upon conditions and after a period of time which it deems appropriate. No petition for reinstatement and no new application for certification from a person whose certification was revoked shall be considered prior to the expiration of at least one (1) year from of the date of certificate revocation unless otherwise stated in the board's revocation order.
 - (f) Conditions—These include any action deemed appropriate by the board to be required of an individual disciplined during any period of probation or suspension or as a prerequisite to the lifting of probation or suspension or the reinstatement of a revoked certificate.
 - (g) Civil Penalty—A monetary disciplinary action assessed by the board pursuant to paragraph (2) of this rule.
- (2) Civil Penalties
 - (a) Purpose - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to Public Chapter 389, Acts of 1989.

(b) Schedule of Civil Penalties

1. A Type A civil penalty may be imposed whenever the board finds the person who is required to be certified by the board is guilty of a willful and knowing violation of the Chiropractic Examiners Practice Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent substantial threat to the health, safety and welfare of an individual client or the public. For the purposes of this section, a Type A penalty shall include, but not be limited to, a person who willfully and knowingly is or was practicing as a chiropractic therapy assistant without the required certification from the board.
2. A Type B civil penalty may be imposed whenever the board finds the person required to be certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto in such a manner as to impact directly on the care of clients or the public.
3. A Type C civil penalty may be imposed whenever the board finds the person required to be certified by the board is guilty of a violation of the Chiropractic Examiners Practice Act or regulations promulgated pursuant thereto, which are neither directly detrimental to the clients or public, nor directly impact their care, but have only an indirect relationship to client care or the public.

(c) Amount of Civil penalties

1. Type A civil penalties shall be assessed in the amount of not less than \$500 and not more than \$1,000.
2. Type B civil penalties may be assessed in the amount of not less than \$100 and not more than \$500.
3. Type C civil penalties may be assessed in the amount of not less than \$50 and not more than \$100.

(d) Procedures for Assessing Civil Penalties

1. The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.
2. Civil Penalties may also be initiated and assessed by the board during consideration of any Notice of Charges. In addition, the board may, upon good cause shown, assess type and amount of civil penalty which was not recommended by the Division.
3. In assessing the civil penalties pursuant to these rules the board may consider the following factors:
 - (i) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (ii) The circumstances leading to the violation;
 - (iii) The severity of the violation and the risk of harm to the public;
 - (iv) The economic benefit gained by the violator as a result of non-compliance; and,
 - (v) The interest of the public.

4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.

Authority: T.C.A. §§4-5-101, 4-5-202, 4-5-204, 63-1-132, 63-1-134, 63-4-106 and 63-4-123.

0260-5-.15 CERTIFICATE.

- (1) Display of Certificate - Every person certified by the board in this state shall display his/her certificate in a conspicuous place in the office or clinic and, whenever required, exhibit such certificate to the board or its authorized representative.
- (2) Replacement Certificate - A certificate holder whose "artistically designed" certificate has been lost or destroyed may be issued a replacement document upon receipt of a written request in the board administrative office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to rule 0260-5-.06.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-1-109, 63-4-106 and 63-4-123.

0260-5-.16 CHANGE OF ADDRESS AND/OR NAME.

- (1) Change of Address - Each person holding a certification who has had a change of home address, shall file in writing with the board his/her current address, giving both old and new addresses. Such request shall be received in the board's administrative office no later than thirty (30) days after such change is effective and must reference the individual's name, profession, and certificate number.
- (2) Change of Business Address - Each person holding certification who has had a change of employment or clinic affiliation shall file in writing with the board his/her current address, giving both old and new addresses. Such notices shall be received in the board's administrative office no later than thirty (30) days after such change is effective and must reference the individual's name, profession, and certificate number and the name and license number of the new employer.
- (3) Change of Name - An individual registered with the board shall notify the board in writing within thirty (30) days of the name change and will provide both the old and new names. A request for name change must also reference the individual's profession, board, and certificate number.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-116, 63-4-106 and 63-4-123.

0260-5-.17 ADVERTISING. Fraudulent, misleading, or deceptive advertising is prohibited.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-116, 63-4-106, 63-4-122 and 63-4-123.

REPEALS

Rules 0260-5-.01 through 0260-1-.17 of Chapter 0260-5, General Rules Governing Chiropractic Therapy Assistants are repealed.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-4-106, and 63-4-123.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-17)

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF GROUND WATER PROTECTION**

There will be a series of hearings before the Division Ground Water Protection of the Tennessee Department of Environment and Conservation to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated 68-221-403(a)(2). These 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 as follows:

October 19, 2000 at 2:00 PM (EST)
Knoxville Environmental Assistance Center
West Side Conference Room
2700 Middlebrook Pike, Suite 220
Knoxville, Tennessee 37921

October 24, 2000 at 2:00 PM (CST)
Jackson Environmental Assistance Center
Conference Room A
362 Carriage Drive
Jackson, Tennessee 38305

October 26, 2000 at 2:00 PM (CST)
17th Floor, L & C Tower
Conference Room B
Nashville, Tennessee 37243-1540

Written comments will be considered if received by close of business, November 9, 2000, at the Division of Ground Water Protection, 10th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243-1540.

Any individuals with disabilities who wish to participate in these proceedings (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 made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such findings), to allow time for the Department of Environment and Conservation to determine how it may

reasonably provide such aid or service. Initial contact may be made with the Department of Environment and Conservation's ADA Coordinator at L & C Annex, 7th Floor, 401 Church Street, Nashville, TN 37243-0437 and (615) 532-0059.

For a copy of this notice of rulemaking hearing contact Mr. Dan Hoover, Tennessee Department of Environment and Conservation, 10th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243-1540 and (615) 532-0772. Copies of draft rules are available for review at the following locations:

Johnson City Environmental Assistance Center
2305 Silverdale Road
Johnson City, TN 37601-2162

Knoxville Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville, TN 37921

Chattanooga Environmental Assistance Center
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402-2013

Cookville Environmental Assistance Center
1221 South Willow Avenue
Cookville, TN 38506

Nashville Environmental Assistance Center
3000 Morgan Road
Joelton, TN 37080

Columbia Environmental Assistance Center
2484 Park Plus Drive
Columbia, TN 38401

Jackson Environmental Assistance Center
362 Carriage House Drive
Jackson, TN 38305

Division of Ground Water Protection
10th Floor, L & C Tower
401 Church Street
Nashville, TN 37243-1540

SUMMARY PROPOSED RULES

This rulemaking includes multiple and various additions, deletions and modifications to Rule Chapters 1200-1-6-.01 Definitions, 1200-1-6-.06 Design of the Conventional Disposal Field, 1200-1-6-.10 Location of Septic Tanks, Dosing Chambers and Absorption Fields, 1200-1-6-.11 Design of Dosing Systems, 1200-1-6-.14 Alternative Methods of Subsurface Sewage Disposal, 1200-1-6-.17 Approved Soil Consultants, 1200-1-6-.21 Fees for Services, Appendix I, and Appendix II. These amendments add numerous soil related definitions, add a daily flow design standard for large conventional subsurface sewage disposal (SSD) systems, add pressure and solid line to the distances of separation, and add a daily design flow standard for alternative systems. They include a change in the requirements for soil consultants, increase the fees for services and address the reduction in size of SSD systems for water saving plumbing fixtures addressed in appendix II.

Authority: T.C.A. 68-221-403(a)(2)

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of August, 2000. (08-26)

**TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SOLID WASTE MANAGEMENT**

There will be a hearing before the Tennessee Department of Environment and Conservation to consider the promulgation of amendments of rules on behalf of the Tennessee Solid Waste Disposal Control Board pursuant to T.C.A. §§ 68-203-103(b)(3), 68-211-102(a), 68-211-105(b), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d), 68-211-851, 68-211-852, 68-211-853 and 68-211-861. 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 following location, time, and date:

Location	Time	Date
5 th Floor Large Conference Room L & C Tower 401 Church Street Nashville, TN	2:00 p.m. CDT	October 18, 2000

Individuals with disabilities who wish to participate in these proceedings or 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 contact should be made no less than ten (10) days prior to the scheduled hearing date or date such party intends to review such filings, to allow time for the Department to determine how it may reasonably provide such aid or services. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, Isaac Okoreeh-Baah, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, 615-532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of this notice of rulemaking hearing or for directions to the hearing location, contact: Greg Luke, Division of Solid Waste Management, Tennessee Department of Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243-1535, 615-532-0788, FAX 615-532-0886. Oral or written comments are invited at the hearing. In addition, written comments may be submitted to Greg Luke prior to or following the public hearing. However, such written comments must be received in the Division’s Central Office by 4:30 p.m. CDT, October 20, 2000 in order to assure consideration. The “DRAFT” rules may also be accessed for review at the Department’s World Wide Web Site located at “<http://www.state.tn.us/environment/new.htm>”.

The Division of Solid Waste Management has prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review in the Public Access Areas of the following Departmental Environmental Assistance Centers:

Memphis Environmental Assistance Center Suite E- 645, Perimeter Office Park 2510 Mount Moriah Road Memphis, TN 38115-1520 901-368-7939/1-888-891-8332	Chattanooga Environmental Assistance Center State Office Building, Suite 550 540 McCallie Avenue Chattanooga, TN 37402-2013 423-634-5745/1-888-891-8332
Knoxville Environmental Assistance Center State Plaza, Suite 220 2700 Middlebrook Pike Knoxville, TN 37921-5602 865-594-6035/1-888-891-8332	Nashville Environmental Assistance Center 537 Brick Church Park Drive Nashville, TN 37243-1550 615-226-6918/1-888-891-8332
Johnson City Environmental Assistance Center 2305 Silverdale Road Johnson City, TN 37601-2162	Jackson Environmental Assistance Center 362 Carriage House Drive Jackson, TN 38305-2222

423-854-5400/1-888-891-8332

Cookeville Environmental Assistance Center
1221 South Willow Avenue
Cookeville, TN 38501
931-432-4015/1-888-891-8332

Nashville Environmental Assistance Center-Joelton
3000 Morgan Road
Joelton, TN 37080
615-299-8451/1-888-891-8332

901-661-6200/1-888-891-8332

Columbia Environmental Assistance Center
2484 Park Plus Drive
Columbia, TN 38401
931-380-3371/1-888-891-8332

Additional review copies only are available at the following library locations:

E. G. Fisher Public Library
1289 Ingleside Avenue
Athens, TN 37371-1812
423-745-7782

Hardin County Library
1013 Main Street
Savannah, TN 38372-1903
901-925-4314

McIver's Grant Public Library
204 North Mill Street
Dyersburg, TN 38024-4631
901-285-5032

Coffee County-Manchester Public Library
1005 Hillsboro Highway
Manchester, TN 37355-2099
931-723-5143

Clarksville-Montgomery Cty. Public Library
350 Pageant Lane, Suite 501
Clarksville, TN 37040-0005
931-648-8826

Art Circle Public Library
154 East First Street
Crossville, TN 38555-4696
931-484-6790

Kingsport Public Library
400 Broad Street
Kingsport, TN 37660-4292
423-229-9488

W. G. Rhea Public Library
400 West Washington Street
Paris, TN 38242-0456
901-642-1702

SUBSTANCE OF PROPOSED RULES

Paragraph (2) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by deleting the definition of "landfarming".

Paragraph (2) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by adding the definition of "land application" to read:

"Land application" means a facility where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for agricultural purposes or for treatment.

Paragraph (2) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by deleting the definitions of "facility", "farming wastes", "landfill", and "transfer station" and inserting the following replacement definitions:

"Facility" means all contiguous land including structures and other appurtenances and improvements on the land used for processing, disposal or land application of solid waste by an owner or operator.

“Farming wastes” means the wastes from the customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in during the production and preparation for market of poultry, livestock, and associated farm products; and in the production and harvesting of agricultural crops which include agronomic, horticultural, and silvicultural crops. However, the term does not include special wastes such as waste oils or other lubricants, unused fertilizers, or pesticide containers or residues.

“Landfill” means a facility, other than a land application unit, where solid wastes are disposed of by burial in excavated pits or trenches or by placement on land and covering with soil or other approved material.

“Transfer station” means a combination of structures, machinery or devices at a place or facility which receives solid waste taken from municipal and/or private collection vehicles and which is placed in other transportation units for movement to another solid waste management facility.

Paragraph (3) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by deleting subparagraphs (e) and (f) in their entirety.

Parts 4 and 5 of subparagraph (c) of paragraph (4) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by deleting the parts in their entirety and substituting the following language:

4. Persons who generate and have special waste processed or disposed of at an off-site facility must:
 - (i) Annually recertify the accuracy of the information on a form provided by the Department, thereby certifying that there has been no change in the waste stream or the process generating the waste since the original special waste approval was granted by the Department; and
 - (ii) It shall be the responsibility of the generator (applicant) to submit all recertifications as required by subpart (i) to the off-site processing or disposal facility and to the Environmental Assistance Center where the processing or disposal facility is located. This submittal shall be 30 days prior to the expiration date of the original approval or anniversary thereof. All approvals will expire one year from the original approval date or the anniversary thereof if not annually recertified as provided herein.
 - (iii) If a change in the waste stream or the process generating the waste has occurred since the original special waste approval was granted, the generator (applicant) shall submit a new special waste request to the Department.
5. Landfills and/or waste processing facilities shall not accept special waste at their facilities without the original, written, special waste approval from the Department unless the waste is specifically authorized in the facility permit.

Part 2 of subparagraph (d) of paragraph (4) of rule 1200-1-7-.01 Solid Waste Management System: General is amended by deleting the part in its entirety and substituting the following language:

2. The Commissioner may require the operator to keep records on the receipt and management of certain special wastes. The operator shall keep copies of special waste approvals by the Department which the facility has accepted into the landfill and all recertifications submitted by generators of such waste.

Part 1 of subparagraph (c) of paragraph (2) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by adding a new subpart (vi) to read as follows:

- (vi) A land application facility, if:

- (I) The operator complies with the notification requirement of part 2 of this subparagraph;
- (II) The facility is constructed, operated, maintained, and closed in such a manner as to minimize;
 - I. The propagation, harborage, or attraction of flies, rodents, or other disease vectors;
 - II. The potential for releases of solid wastes or solid waste constituents to the environment except in a manner authorized by state and local pollution control, waste pollution control and/or waste management agencies, and
 - III. The potential for harm to the public through unauthorized or uncontrolled access.
- (III) Trained personnel are always present during operating hours to operate the facility;
- (IV) There is no storage of solid wastes at the facility except in the containers, bins, lined pits or on paved surfaces, designated for such storage;
- (V) Wind dispersal of solid wastes at or from the facility is adequately controlled;
- (VI) The waste disposed of is not hazardous as defined in rule 1200-1-11.02(1)(c) of the *Hazardous Waste Management Regulations*;
- (VII) The facility must not be located in a 10-year floodplain unless it is demonstrated to the satisfaction of the Commissioner that the land application area is designed, constructed, operated, and maintained to prevent washout of any solid waste;
- (VIII) Land application facilities shall not be located in wetlands, unless the owner or operator makes the applicable demonstrations to the Commissioner as referenced at rule 1200-1-7-.04(2)(p);
- (IX) A land application facility must not be located in highly developed karst terrain (i.e., sink holes and caves);
- (X) The land application facility does not:
 - I. Cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife; or
 - II. Result in the destruction or adverse modification of the critical habitat of endangered or threatened species;
- (XI) The facility demonstrates that the rate at which waste is to be land applied will result in optimized crop production at sites where crops are grown;
- (XII) The facility demonstrates that the rate at which waste is to be land applied will not result in an accumulation of waste constituents such that crop production is inhibited;
- (XIII) The facility demonstrates the manner in which waste is to be land applied will minimize odors to the extent practicable;

(XIV)The facility is located such that the boundaries are greater than:

- I. 500 feet from a dwelling;
- II. 500 feet from a domestic water supply well;
- III. 100 feet from a stream;
- IV. 1000 feet from a public water supply well; and
- V. 20 feet from a public roadway;

(XV) The facility maintains records of the amount of waste which has been land applied and the dates of application;

(XVI)The facility performs monitoring for waste constituents in soil and surface waste in accordance with an approved sampling plan and submits results to the Division. Ground water monitoring may be required by the Commissioner.

Subpart (ii) of part 1 of subparagraph (d) of paragraph (2) of rule 1200-1-7-.02 Permitting Of Solid Waste Storage, Processing, and Disposal Facilities is amended by deleting the subpart in its entirety and substituting the following language:

- (ii) The Part II disposal permit application shall consist of those reports, plans and specifications, or other documentation necessary to provide the information specified in rule 1200-1-7-.04(9). The master plan, design plan, and narrative description of the facility and operation are components of the Part II application and each must be prepared by a registered engineer. Any registered engineer herein required shall be governed by the terms of T.C.A. Title 62, Chapter 2.

Subpart (ii) of part 10 of subparagraph (a) of paragraph (4) of rule 1200-1-7-.02 Permitting Of Solid Waste Storage, Processing, and Disposal Facilities is amended by deleting the subpart in its entirety and substituting the following language:

- (ii) Monitoring results shall be reported at the intervals specified in the permit.

Part 3 of subparagraph (c) of paragraph (5) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing and Disposal Facilities is amended by adding a new subpart(vi) with the following language:

- (vi) Non-payment of any fees owed to the Department.

Subpart (i) of part 1 of subparagraph (d) of paragraph (3) of rule 1200-1-7-.03 Requirements For Financial Assurance is amended by deleting subpart (i) in its entirety and substituting the following language:

- (i) The surety company issuing the bond must be licensed to do business as a surety in Tennessee and must be among those listed as acceptable sureties on federal bonds in Circular 570 of the U. S. Department of the Treasury.

Part 8 of subparagraph (d) of paragraph (3) of rule 1200-1-7-.03 Requirements For Financial Assurance is amended by deleting the first three sentences of part 8 (retaining all subparts) and substituting the following language:

- 8. Closure and/or post-closure insurance. An owner or operator may satisfy the requirements of subparagraph (c) of this paragraph by obtaining insurance which conforms to the requirements of this part and filing a certificate of such insurance. At a minimum, the insurer must be licensed to transact the

business of insurance, or eligible to provide insurance as an excess or surplus lines insurer in the State of Tennessee and have an A. M. Best rating of at least A or A- or have special approval from the Commissioner.

Part 8 of subparagraph (a) of paragraph (4) of rule 1200-1-7-.04 Specific Requirements For Class I, II, III, And IV Disposal Facilities is amended by deleting the existing part 8 and substituting the following language to read:

8. Collected leachate:
 - (i) Must be managed in accordance with any other applicable state and local regulations; and
 - (ii) Must be sampled and analyzed, at least annually for Appendix I constituents using sampling and analysis procedures as approved by the Commissioner. All leachate analysis results with all pertinent supporting data must be reported to the Commissioner with the next semi-annual ground water analysis report.
 - (iii) Nothing in this rule shall prohibit the recirculation of leachate through the emplaced waste provided that the requirements of this rule chapter are met.

Subpart (viii) of part 4 of subparagraph (a) of paragraph (7) of rule 1200-1-7-.04 Specific Requirements For Class I, II, III, IV Disposal Facilities is amended by deleting the existing subpart (viii) in its entirety and substituting the following language:

- (viii) All ground water sample analysis results with any statistical determinations and the associated recordings of ground water surface elevations must be submitted to the Commissioner within sixty days of the sampling event. To facilitate handling and evaluation of this data, the Commissioner may, in the permit, specify the manner and form in which the data must be reported.

Part 3 of subparagraph (b) of paragraph (1) of rule 1200-1-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by deleting part 3 in its entirety and renumbering the remaining parts.

Subparagraph (b) of paragraph (2) of rule 1200-01-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by deleting part 5 and substituting the following language:

5. Transfer Station \$ 500.00

Subparagraph (b) of paragraph (2) of rule 1200-01-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by adding a new part 6 and 7 with the following language:

6. Transfer of Ownership \$1,000.00
7. Land Application Facility \$1,000.00

Subparagraph (c) of paragraph (3) of rule 1200-01-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by deleting part 3 and substituting the following language:

3. Transfer Station \$1,000.00

Subparagraph (c) of paragraph (3) of rule 1200-01-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by adding a new part 4 with the following language:

4. Land Application Facility \$1,000.00

Paragraph (5) of rule 1200-1-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by deleting the current paragraph in its entirety and substituting the following language:

- (5) Facility Inspection Fee – Any person who has a municipal solid waste disposal facility permit or incinerator permit and is receiving waste on July 1, 2000, is assessed a facility inspection fee of \$0.10 on each ton of municipal solid waste received. This fee shall be calculated in the same manner and paid at the same time as the surcharge in rule 1200-1-7-.08.

Subparagraph (b) of paragraph (6) of rule 1200-01-7-.07 Fee System for Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by adding a new part 5 with the following language:

5. Land Application Facility 90 days

Subparagraph (a) of paragraph (1) of rule 1200—1—7-.09 Waste Disposal Reduction Goal is amended by deleting subparagraph (a) and substituting the following language:

- (a) The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at municipal solid waste disposal facilities and incinerators by December 31, 2003, as measured on a per capita basis within Tennessee by weight. The goal shall also apply to each municipal solid waste region; but does not apply to individual disposal facilities or incinerators. Individual disposal facilities or incinerators are used only as measurement locations for assessing the achievement of a region's waste reduction efforts. As an alternative to calculating the waste reduction goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the Department and approved by the Municipal Solid Waste Advisory Committee.

Subparagraph (a) of paragraph (3) of rule 1200—1—7—.09 Waste Disposal Reduction Goal is amended by deleting subparagraph (a) and substituting the following language:

- (a) A region's waste reduction plan shall be consistent with the guidelines issued by the Division of Community Assistance. Such a plan shall explain the region's waste reduction methods. The region may use any combination of methods; however, the following methods or practices will not be considered in the calculation for the region's waste reduction plan:
1. Incineration,
 2. Unmarketed municipal solid waste compost,
 3. Recovered materials (other than problem wastes) stored for recycling without being marketed as prescribed by rule 1200-1-7-.09(2)(b)3, and
 4. Illegal or unauthorized storage or disposal of municipal solid waste.

Subparagraph (c) and (d) of paragraph (3) of rule 1200—1—7—.09 Waste Disposal Reduction Goal are amended by deleting subparagraphs (c) and (d) substituting the following language:

- (c) The region shall present its calculation of the twenty-five percent (25%) reduction on a per capita basis or the economic growth basis to be prescribed by the Department in accordance with paragraph (1) of this rule.
- (d) The region plan shall utilize the base year of 1995 for measuring waste reduction unless a region can demonstrate that the 1995 data is clearly in error. A region may receive credit toward the waste reduction goal from recycling and source reduction programs prior to 1995, but no earlier than 1985. The

region shall notify in writing the Director of the Division of Community Assistance of such an error and request approval of any adjustment to the 1995 data.

Subparagraph (e) of paragraph 3 of rule 1200—1—7—.09 Waste Disposal Reduction Goal is amended by deleting subparagraph (e) and substituting the following language:

- (e) By March 31 of each year, each region shall submit an annual report to the Division of Community Assistance. Pursuant to T.C.A. §§68-211-863 and 68-211-871, such reports shall include, at a minimum, the amount and type of recycled materials collected in the region.

Rule 1200—1—7—.09 Waste Disposal Reduction Goal is amended by deleting paragraph (4) in its entirety.

Part 5 of subparagraph (b) of paragraph (1) of rule 1200-1-7-.11 Requirements for Compost and Composting Facilities is amended by deleting part (5) and substituting the following language:

- 5. A composting facility processing up to 10,000 cubic yards per year of only landscaping waste and manure may receive a permit pursuant to rule 1200-1-7-.02(1)(c) Permits by Rule, for Solid Waste Processing.

Subparagraph (b) of paragraph (1) of rule 1200-1-7-.11 Requirements for Compost and Composting Facilities is amended by added a new part (7) to read:

- 7. A composting facility one acre or less in size processing only domestic sewage sludge and landscaping wastes may receive a permit pursuant to rule 1200-1-7-.02(1)(c) Permits by Rule, for Solid Waste Processing.

Part 2 of subparagraph (c) of paragraph (1) of rule 1200-1-7-.12 Requirements For Certification of Operators, Attendants, and Responsible Persons For Solid Waste Landfills is amended by deleting part 2 and substituting the following language:

2. Certification Required

Those facilities identified in subparagraph (1)(b) of this rule are required to have a certified operator and one certified attendant with their certification from a training program approved by the Department.

Authority: T.C.A. §§ 68-203-103(b)(3), 68-211-102(a), 68-211-105(b), 68-211-106(a)(1), 68-211-107(a), 68-211-111(d)(1), 68-211-111(d)(2), 68-211-851(a), 68-211-852, 68-211-853, and 68-211-861.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-28)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SOLID WASTE MANAGEMENT

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, acting on behalf of the Tennessee Solid Waste Disposal Control Board, to consider the adoption and promulgation of rules and amendments to rules pursuant to the Tennessee Code Annotated Sections 68-212-106, 68-212-107, 68-212-108, 68-212-109, 68-212-110 and 68-212-114; the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-211-101 et seq; the Tennessee Environmental Protection Fund Act, Tennessee Code Annotated, Section 68-203-101 et seq; the Used Oil Collection Act of 1993, Tennessee Code Annotated, Section 68-211-1001 et seq and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 in the 5th Floor Large Conference Room, L & C Tower, 401 Church Street, Nashville, Tennessee at 1:00 p.m. CDT on October 18, 2000.

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 contact may be in person or by writing, telephone, or other means, and should be made no less than ten days prior to October 18, 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, Issac Okoreeh-Baah, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Parts (8)(g)2 and 4 of Rule 1200-1-11-.05 Interim Status Standards for Owners and Operators of Existing Hazardous Waste Treatment, Storage and Disposal Facilities are amended by deleting them in their entirety and substituting the following so that, as amended, they shall read as follows:

Rule 1200-1-11-.05(8)(g)2

2. Surety Bond Guaranteeing Payment into a Closure and/or Post-closure Trust Fund

An owner or operator may satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph by obtaining a surety bond which conforms to the requirements of this part and submitting the bond to the Division Director.

- (i) The surety company issuing the bond must be licensed to do business as a surety in Tennessee and must be among those listed as acceptable sureties on Federal bonds in circular 570 of the U. S. Department of the Treasury.
- (ii) The wording of the surety bond must be identical to the wording specified in Rule 1200-1-11-.06(8)(p)2.
- (iii) The owner or operator who uses a surety bond to satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Commissioner. This standby trust fund must meet the requirements specified in part 1 of this subparagraph, except that:

- (I) An originally signed duplicate of the trust agreement must be submitted to the Division Director with the surety bond; and
- (II) Until the standby trust fund is funded pursuant to the requirements of this paragraph, the following are not required by these regulations:
 - I. Payments into the trust fund as specified in part 1 of this subparagraph;
 - II. Updating of Schedule A of the trust agreement (see Rule 1200-1-11-.06(8)(p)1) to show current closure and/ or post-closure care cost estimates;
 - III. Annual valuations as required by the trust agreement; and
 - IV. Notices of nonpayment as required by the trust agreement.
- (iv) The bond must guarantee that the owner or operator will:
 - (I) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure and/or post-closure care of the facility; or
 - (II) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure and/or post-closure care issued by the Commissioner becomes final, or within 15 days after an order to begin final closure and/or post-closure care is issued by the Commissioner, the Board or court of competent jurisdiction; or
 - (III) Provide alternate financial assurance as specified in this paragraph, and obtain the Division Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Division Director of a notice of cancellation of the bond from the surety.
- (v) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- (vi) The penal sum of the bond must be in an amount at least equal to the current closure and/or post-closure care estimate, except as provided in subparagraph (h) of this paragraph.
- (vii) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Division Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Division Director, as evidenced by the return receipts.
- (viii) The owner or operator may cancel the bond if the Commissioner has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this paragraph.

Rule 1200-1-11-.05(8)(g)4

4. Closure and/or Post-closure Care Insurance

An owner or operator may satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph by obtaining closure and/or post-closure care insurance which conforms to the requirements of this part and submitting a certificate of such insurance to the Division Director. By the effective date of these regulations the owner or operator must submit to the Division Director a letter from an insurer stating that the insurer is considering issuance of closure and/or post-closure care insurance conforming to the requirements of this part to the owner or operator. Within 90 days after the effective date of these regulations, the owner or operator must submit the certificate of insurance to the Division Director or establish other financial assurance as specified in this paragraph.

- (i) The insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the State of Tennessee and have an A. M. Best rating of at least A or A- or have special approval from the Commissioner. An insurer that is a “captive insurance company”, as that term is used in T.C.A. sections 56-13-106 through 56-13-133, may not be utilized unless the Commissioner determines that such captive insurance company offers coverage that is equivalent in protection to other insurance companies or other allowable financial assurance mechanisms.
- (ii) The wording of the certificate of insurance must be identical to the wording specified in Rule 1200-1-11-.06(8)(p)5.
- (iii) The insurance policy must be issued for a face amount at least equal to the current closure and/or post-closure care cost estimate, except as provided in subparagraph (h) of this paragraph. The term “face amount” means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer’s future liability will be lowered by the amount of the payments.
- (iv) The insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs and/or to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once final closure and/or the post-closure care period begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Division Director, to such party or parties as the Division Director specifies.
- (v) Under an insurance policy which guarantees the availability of funds for final closure and/or post-closure care, after beginning partial or final closure, an owner or operator or any other person authorized to conduct closure and/or post-closure care may request reimbursements for closure and/or post-closure care expenditures by submitting itemized bills to the Division Director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure and/or post-closure care activities, the Division Director will instruct the insurer to make reimbursements in such amounts as the Division Director specifies in writing if the Division Director determines that the partial or final closure and/or post-closure care expenditures are in accordance with the approved closure plan or otherwise justified. If the Division Director has reason to believe that the maximum cost of closure and/or post-closure care over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until the owner or operator is released from the financial assurance requirement as provided

in part (d)3 and/or (f)3 of this paragraph. If the Division Director does not instruct the insurer to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

- (vi) Upon forfeiture of financial assurance as provided in parts (d)4 and (f)4 of this paragraph, the Division Director will direct the insurer to pay the full face amount to the State.
- (vii) The owner or operator must maintain the policy in full force and effect until the Division Director, Commissioner, or Board releases the financial assurance mechanism as provided in this paragraph. Failure to pay the premium, without substitution of alternate financial assurance as specified in this paragraph, will constitute a significant violation of these regulations, warranting such remedy as the Commissioner deems necessary. Such violation will be deemed to begin upon receipt by the Division Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.
- (viii) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.
- (ix) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Division Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Division Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:
 - (I) The Division Director deems the facility abandoned; or
 - (II) Interim status is terminated or revoked; or
 - (III) Closure is ordered by the Commissioner, the Board, or a court of competent jurisdiction; or
 - (IV) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
 - (V) The premium due is paid.
- (x) The Commissioner will give written consent to the owner or operator that he may terminate the insurance policy when:
 - (I) An owner or operator substitutes alternate financial assurance as specified in this paragraph; or
 - (II) The Commissioner releases the owner or operator from the requirements of this paragraph in accordance with part (d)3 and/or part (f)3 of this paragraph.

Authority: *T.C.A. Sections 4-5-202 and 68-212-101 et seq.*

Parts (8)(g)2, 3, and 5 of Rule 1200-1-11-.06 Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities are amended by deleting them in their entirety and substituting the following so that, as amended, they shall read as follows:

Rule 1200-1-11-.06(8)(g)2 and 3

2. Surety Bond Guaranteeing Payment Into a Closure and/or Post-closure Trust Fund

An owner or operator may satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph by obtaining a surety bond which conforms to the requirements of this part and submitting the bond to the Division Director. An owner or operator of a new facility must submit the bond to the Division Director.

- (i) The surety company issuing the bond must be licensed to do business as a surety in Tennessee and must be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U. S. Department of the Treasury.
- (ii) The wording of the surety bond must be identical to the wording specified in part (p)2 of this paragraph.
- (iii) The owner or operator who uses a surety bond to satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the Commissioner. This standby trust fund must meet the requirements specified in part 1 of this subparagraph, except that:
 - (I) An originally signed duplicate of the trust agreement must be submitted to the Division Director with the surety bond; and
 - (II) Until the standby trust fund is funded pursuant to the requirements of this paragraph, the following are not required by these regulations:
 - I. Payments into the trust fund as specified in part 1 of this subparagraph;
 - II. Updating of Schedule A of the trust agreement (see part (p)1 of this paragraph) to show current closure and/or post-closure care cost estimates;
 - III. Annual valuations as required by the trust agreement; and
 - IV. Notices of nonpayment as required by the trust agreement.
- (iv) The bond must guarantee that the owner or operator will:
 - (I) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure and/or post-closure care of the facility; or
 - (II) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure and/or post-closure care issued by the Commissioner becomes final, or within 15 days after an order to begin final closure and/or post-closure care is issued by the Commissioner, the Board, or a court of competent jurisdiction; or

- (III) Provide alternate financial assurance as specified in this paragraph, and obtain the Division Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Division Director of a notice of cancellation of the bond from the surety.
 - (v) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
 - (vi) The penal sum of the bond must be in an amount at least equal to the current closure and/or post-closure care cost estimate, except as provided in subparagraph (h) of this paragraph.
 - (vii) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Division Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Division Director, as evidence by the return receipts.
 - (viii) The owner or operator may cancel the bond if the Commissioner has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this paragraph.
3. Surety Bond Guaranteeing Performance of Closure and/or Post-closure

An owner or operator may satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph by obtaining a surety bond which conforms to the requirements of this part and submitting the bond to the Division Director. An owner or operator of a new facility must submit the bond to the Division Director.

- (i) The surety company issuing the bond must be licensed to do business as a surety in Tennessee and must be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U. S. Department of the Treasury.
- (ii) The wording of the surety bond must be identical to the wording specified in part (p)3 of this paragraph.
- (iii) The bond must guarantee that the owner or operator will:
 - (I) Perform final closure in accordance with the closure plan and other requirements of the permit for the facility whenever required to do so and/or perform post-closure care in accordance with the post-closure care plan and other requirements of the permit for the facility; or
 - (II) Provide alternate financial assurance as specified in this section, and obtain the Division Director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the Division Director of a notice of cancellation of the bond from the surety.
- (iv) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final determination by the Commissioner that the owner or operator has failed to so perform, under the terms of the bond the surety will perform final closure and/or post-closure care as guaranteed by the bond or will forfeit

the amount of the penal sum, as provided in parts (d)5 and or (f)5 of this paragraph as directed by the Commissioner.

- (v) The penal sum of the bond must be in an amount at least equal to the current closure cost estimate.
- (vi) Whenever the current closure cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Division Director, or obtain other financial assurance as specified in this paragraph. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Division Director.
- (vii) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Division Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Division Director, as evidenced by the return receipts.
- (viii) The owner or operator may cancel the bond if the Commissioner has given prior written consent. The Commissioner will provide such written consent when:
 - (I) An owner or operator substitutes alternate financial assurance as specified in this paragraph; or
 - (II) The Commissioner releases the owner or operator from the requirements of this paragraph in accordance with parts (d)4 and/or (f) of this paragraph.
- (ix) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the Commissioner releases the owner or operator from the requirements of this paragraph in accordance with parts (d)4 and/or (f)4 of this paragraph.

Rule 1200-1-11.06(8)(g)5

5. Closure and/or Post-closure Insurance

An owner or operator may satisfy the requirements of subparagraphs (d) and/or (f) of this paragraph by obtaining closure and/or post-closure care insurance which conforms to the requirements of this part and submitting a certificate of such insurance to the Division Director. An owner or operator of a new facility must submit the certificate of insurance to the Division Director.

- (i) The insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the State of Tennessee and have an A.M. best rating at least A or A- or have special approval from the Commissioner. An insurer that is a “captive insurance company”, as that term is used in T.C.A. Sections 56-13-106 through 56-13-133, may not be utilized unless the Commissioner determines that such captive insurance company offers coverage that is equivalent in protection to other insurance companies or other allowable financial assurance mechanisms.

- (ii) The insurance policy must be accompanied by a certificate of insurance whose wording is identical to the wording specified in part (p)5 of this paragraph.
- (iii) The insurance policy must be issued for a face amount at least equal to the current closure and/or post-closure care cost estimate, except as provided in subparagraph (h) of this paragraph. The term “face amount” means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer’s future liability will be lowered by the amount of the payments.
- (iv) The insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs and/or to provide post-closure care of the facility whenever the post-closure period begins. The policy must also guarantee that once final closure and/or the post-closure care period begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Division Director, to such party or parties as the Division Director specifies.
- (v) Under an insurance policy which guarantees the availability of funds for final closure and/or post-closure care, after beginning partial or final closure, an owner or operator or any other person authorized to perform closure and/or post-closure care may request reimbursement for closure and/or post-closure care expenditures by submitting itemized bills to the Division Director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure and/or post-closure activities, the Division Director will instruct the insurer to make reimbursements in such amounts as the Division Director specifies in writing, if the Division Director determines that the partial or final closure and/or post-closure expenditures are in accordance with the approved closure and/or post-closure plan or otherwise justified. If the Division Director has reason to believe that the maximum cost of closure and/or post-closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until the owner or operator is released from the financial assurance requirement as provided in part (d)4 and/or (f)4 of this paragraph. If the Division Director does not instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.
- (vi) Upon forfeiture of financial assurance as provided in parts (d)5 and (f)5 of this paragraph, the Division Director will direct the insurer to pay the full face amount to the State.
- (vii) The owner or operator must maintain the policy in full force and effect until the Division Director, Commissioner, or Board releases the financial assurance mechanism as provided in this paragraph. Failure to pay the premium, without substitution of alternate financial assurance as specified in this paragraph, will constitute a significant violation of these regulations, warranting such remedy as the Commissioner deems necessary. Such violation will be deemed to begin upon receipt by the Division Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.
- (viii) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

- (ix) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Division Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Division Director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:
 - (I) The Division Director deems the facility abandoned; or
 - (II) The permit is terminated or revoked or a new permit is denied; or
 - (III) Closure is ordered by the Commissioner, the Board, or a court of competent jurisdiction; or
 - (IV) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or
 - (V) The premium due is paid.
- (x) The Commissioner will give written consent to the owner or operator that he may terminate the insurance policy when:
 - (I) An owner or operator substitutes alternate financial assurance as specified in this paragraph; or
 - (II) The Commissioner releases the owner or operator from the requirements of this paragraph in accordance with parts (d)4 and/or (f)4 of this paragraph.

Authority: T.C.A. Sections 4-5-202 and 68-212-101 et seq.

Rule 1200-1-11-.08 Fee System For Transporters, Storers, Treaters, Disposers, and Certain Generators of Hazardous Wastes and For Certain Used Oil Facilities or Transporters is amended by deleting it in its entirety and substituting the following so that, as amended, it shall read as follows:

1200-1-11-.08 FEE SYSTEM FOR TRANSPORTERS, STORERS, TREATERS, DISPOSERS, AND CERTAIN GENERATORS OF HAZARDOUS WASTES AND FOR CERTAIN USED OIL FACILITIES OR TRANSPORTERS

- (1) General
 - (a) Purpose - The purpose of this Rule is to establish a system and schedule whereby certain fees shall be levied and collected by the Commissioner. Expenditures of such fees collected shall be restricted to operation of the hazardous waste management program established pursuant to the Act. Any unencumbered and any unexpended balance shall be maintained in the Tennessee Environmental Protection Fund (the "Fund").
 - (b) Applicability - The requirements of this Rule apply as specified to the following persons:

1. All transporters having a transporter permit issued under the Act and all new or existing transporters subject to the transporter permit requirements of Rule 1200-1-11-.04(2);
 2. Owners and operators of all hazardous waste storage, treatment, and disposal facilities who are subject to the facility permit requirements of Rule 1200-1-11-.07, except for those subject solely to the permit-by-rule requirements of Rule 1200-1-11-.07(1)(c);
 3. All generators of hazardous wastes;
 4. Persons requesting that the Solid Waste Disposal Control Board review an action of the Commissioner; and
 5. All transporters, marketers, processors/re-refiners of used oil, or burners of off-specification used oil.
 6. Persons carrying out closure activities, post-closure activities and/or corrective action activities, under permits or other enforceable documents.
- (c) Payment of Fees - Any person required to pay a fee under this Rule shall submit the fee by check or money order in the specified amount, made payable to the Department for deposit in the Tennessee Environmental Protection Fund.
- (2) Installation Identification Number Application Fee - Any person who applies to the department for an Installation Identification Number on the Notification Forms provided by the department shall submit as part of the request a first time only fee of 50 dollars.
- (3) Permit Application Fees
- (a) Transporters - Any person who applies for a permit or modification to a permit to transport hazardous wastes in Tennessee must submit as part of said application an application fee of 100 dollars.
 - (b) Storage, Treatment, and Disposal Facilities including facilities conducting corrective action and post-closure under permits, orders, or other enforceable documents.
 1. Part A application - Any person who applies for a permit for a hazardous waste storage, treatment, or disposal facility must submit, as part of his A application and prior to application review, an application fee for each new or revised application as set forth below:

400	dollars for an existing facility; or
2,000	dollars for a new facility.
 2. Part B application - Any person who applies for a permit, or permit renewal, for a hazardous waste storage, treatment, or disposal facility must submit, as part of his Part B application and prior to application review, an application fee for each new or revised application as set forth below:
 - (i) Part B application for an on-site hazardous waste facility:

10,000	dollars for a storage facility;
10,000	dollars for a treatment facility;
20,000	dollars for a disposal facility; and

20,000 dollars for a landfill site.

- (ii) Part B application for a commercial hazardous waste facility:

25,000 dollars for a storage facility;

25,000 dollars for a treatment facility;

40,000 dollars for a disposal facility; and

40,000 dollars for a landfill site.

- (iii) Part B application for a post-closure unit pursuant to a permit, order or other enforceable document:

20,000 dollars for a unit not previously permitted under a hazardous waste operating permit; and

10,000 dollars for a unit which previously operated under a hazardous waste operating permit.

- (iv) Part B application for corrective action:

10,000 dollars for a facility, as defined under Rule 1200-1-11-.01(2)(a), implementing corrective action under Rule 1200-1-11-.06(6)(1) not already included in subparts (i), (ii) or (iii) of this part.

- (c) Special Case: Modification of Existing Facility Permit - Any person who applies for modification or reissuance (following revocation) of his existing facility permit, order, or other enforceable document [refer to Rule 1200-1-11-.07(9)] must submit, as part of his Part B application and prior to modification review, an application fee as set forth below:

1. For owners or operators applying for a Class 1 permit modification, the fee shall be 500 dollars;
2. For owners or operators applying for a Class ¹1 permit modification with changes other than, or in addition to, changes in part 1 above, the fee shall be 3,000 dollars; The Class ¹1 permit modification fee for Maximum Achievable Control Technology (MACT) modifications shall be 6,000 dollars.
3. For owners or operators applying for a change in ownership or operational control of a facility pursuant to Rule 1200-1-11-.07(9)(b)3, the fee shall be 3,000 dollars.
4. For owners or operators applying for a Class 2 permit modification, the fee shall be:
 - 7,000 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage and/or treatment unit;
 - 9,000 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and
 - 10,000 dollars for modification of a post-closure unit.
5. For owners or operators applying for a Class 3 permit modification, the fee shall be:

10,000 dollars for modification of a container or tank storage and/or treatment unit, thermal treatment unit, or drip pad, storage, and/or treatment unit;

12,000 dollars for modification of any permit to include the final remedy for Solid Waste Management Units under corrective action requiring remediation and/or maintenance activities;

12,000 dollars for modification of a disposal unit, waste pile storage unit, containment building storage and/or treatment unit, surface impoundment storage and/or treatment unit, or other miscellaneous unit; and

14,500 dollars for modification of a post-closure unit.

- (d) Closure and Post-Closure Plans - Any person required to submit a closure plan or post-closure plan [refer to Rule 1200-1-11-.05(7) and -.06(7)] for a hazardous waste facility must submit, as part of the closure or post-closure plan, and prior to plan review, an application fee, unless the above plan was reviewed as part of an operating permit application package as set forth below:

2,000 dollars for a closure plan;

2,000 dollars for a post-closure plan.

- (e) Modification of Approved Closure and Post-Closure Plan - Any person who submits a modification to an approved closure plan or post-closure plan must submit, as part of the modification and prior to modification review, a modification fee as set forth below:

250 dollars for Class 1 Modification;

750 dollars for Class ¹1 Modification;

1,000 dollars for Class 2 Modification; and

1,500 dollars for Class 3 Modification.

- (f) Emergency Permit - Any person who applies for an emergency permit (refer to Rule 1200-1-11-.07(1)(d)) must submit, as part of the emergency permit application, an application fee of 2,000 dollars.

- (g) Research, Demonstration, and Development Permit - Any person who applies for a research, demonstration, and development permit (refer to Rule 1200-1-11-.07(1)(g)) must submit, as part of the research, demonstration, and development permit application, an application fee of 2,000 dollars. An additional fee of 1,000 dollars is assessed for each renewal allowed under Rule 1200-1-11-.07(1)(g)4.

- (h) Temporary Authorization – Any person who applies for a temporary authorization (refer to Rule 1200-1-11-.07(9)(c)5(v) must submit as part of the temporary authorization request, an application fee of 2000 dollars. An additional fee of 250 dollars is assessed for the renewal allowed under Rule 1200-1-11-.07(9)(c)5(v)(IV).

- (i) Schedule for Timely Action on Permit Applications

1. The following documents, when submitted separately, must be reviewed and the applicant notified within the following time frames:

(i)	Hydrogeologic Report (Assessment Plan, Sampling and Analysis Plans, Groundwater Annual Reports, and Groundwater Monitoring Plan)	180 days
(ii)	Closure Plan	180 days
(iii)	Post-Closure Plan	180 days
(iv)	Review of Part A Application for Completeness	45 days
(v)	Initial Review of Part B Application	180 days
(vi)	Initial Review of Class 1 and ¹ 1 Modification	60 days

2. Applications, closure plans, post-closure plans, and modifications shall be acted upon (issued or denied) by the Department within the time frames required by Rule 1200-1-11-.07 beginning with the end of the public comment period(s) specified in each public notice.

3. The above timely action periods shall be stayed if:

- (i) The applicant requests that review be suspended;
- (ii) The department issues a written notice of deficiency and until the applicant adequately addresses said deficiency;
- (iii) Priorities set by the Environmental Protection Agency (EPA) require a delay;
- (iv) The review process has been halted due to pending judicial and/or administrative actions;
- (v) Applicable regulations change;
- (vi) The Department requests a delay in the review process to which the applicant agrees; or
- (vii) Multiple (5 or more) Class 1 or ¹1 modifications from a single applicant are received.

4. Should the Department not comply with the timely review periods specified in subparagraph (h) of this paragraph, the application fee shall be refunded. The Board shall be provided a quarterly update on the timeliness of permit processing.

(4) Annual Permit Maintenance Fees

- (a) Transporters - Each person having a transporter permit issued under the Act must submit to the Commissioner, by March 1 of each year, an annual permit maintenance and renewal fee of 200 dollars.
- (b) Storage, Treatment, and Disposal Facilities including facilities conducting corrective action and post-closure - The owner or operator of each hazardous waste storage, treatment, or disposal facility in Tennessee having either a permit issued under the Act or interim status as provided under Rule 1200-1-11-.07(3) must submit to the Commissioner, by March 1 of each year, an annual permit maintenance fee as provided in this subparagraph.

1. General

- (i) Annual fees shall be assessed based on the facility's maximum design capacities as documented in the permit application filed with the Department as of the last day of the prior calendar year, except that owners or operators subject to subparts (iii) and (iv) of this part shall be assessed annual fees based upon the maximum design capacities of their facilities at closure and permitting, respectively.
- (ii) The owner or operator of each storage, treatment, or disposal facility shall be assessed an annual fee each year until all closure, post-closure, and corrective action activities are complete and the facility is closed in accordance with the appropriate standards of Rules 1200-1-11-.05 or 1200-1-11-.06, as applicable.
- (iii) The owner or operator of a facility which closes during the first half of a calendar year (i.e., prior to July 1) shall be assessed only one-half the fees he would otherwise be subject to under parts 2, 3, and 4 of this subparagraph.
- (iv) The owner or operator of a facility which receives its initial permit during the second half of a calendar year (i.e., after July 1) shall be assessed only one-half the fees he would otherwise be subject to under parts 2, 3, and 4 of this subparagraph.
- (v) For purposes of this subparagraph, if a facility receives hazardous wastes from off-site for any purpose it is determined to be an off-site facility, except for a facility that receives hazardous wastes generated only at a site or sites owned or operated by the same manufacturing corporation or subsidiaries of such corporation.

The owner or operator of a facility which completes a corrective action activity or post-closure activity during the first half of a calendar year (i.e., prior to July 1) shall be assessed only one-half the fees he would otherwise be subject to under parts 5 and 6 of this subparagraph

2. Storage Operations

- (i) The owner or operator of each facility shall be assessed an annual fee based on the design capacity in gallons (g) of the facility's hazardous waste storage operations as set forth below:

- (I) For facilities which receive only hazardous waste which are generated on-site:

Design Capacity	Fee
0 - 5,000 g	\$1,000
5,001 - 10,000 g	1,500
10,001 - 50,000 g	3,000
50,001 - 100,000 g	3,500
100,001 - 500,000 g	4,000
500,001 - 1,000,000 g	4,500
over 1,000,000 g	5,000

- (II) For facilities which receive hazardous wastes from off-site generators:

Design Capacity	Fee
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0 - 5,000 g		\$2,000
5,001 - 10,000 g		3,000
10,001 - 50,000 g	6,000	
50,001 - 100,000 g	7,000	
100,001 - 500,000 g		8,000
500,001 - 1,000,000 g		9,000
over 1,000,000 g		10,000

(ii) An owner/operator who is required by parts 3 or 4 of this subparagraph to pay a fee on treatment or disposal operations at his facility shall not be subject to the storage fee requirements of this part with respect to containers, tanks, surface impoundments, or waste piles used to store hazardous waste generated on-site prior to it being so treated or disposed of on-site, provided such treatment or disposal occurs within 90 days.

3. Treatment Operations - The owner or operator of each facility shall be assessed an annual fee based on the design capacity in gallons per day (gpd) of the facility's hazardous waste treatment operations as set forth below:

(i) For facilities which receive only hazardous wastes which are generated on-site:

Design Capacity		Fee
0 - 5,000 gpd		\$2,000
5,001 - 10,000 gpd		2,500
10,001 - 50,000 gpd		3,000
50,001 - 100,000 gpd		3,500
100,001 - 500,000 gpd		4,000
500,001 - 1,000,000 gpd	4,500	
over 1,000,000 gpd		5,000

(ii) For facilities which receive hazardous waste from off-site generators:

Design Capacity		Fee
0 - 5,000 gpd		\$4,000
5,001 - 10,000 gpd		5,000
10,001 - 50,000 gpd		6,000
50,001 - 100,000 gpd	7,000	
100,001 - 500,000 gpd		8,000
500,001 - 1,000,000 gpd		9,000
over 1,000,000 gpd		10,000

4. Disposal Operations - These fees are applicable only to facilities which require a permit under Rule 1200-1-11-.07 of the Rules governing hazardous waste management for the State of Tennessee. The owner or operator of each facility shall be assessed an annual fee as set forth below:

(i) For facilities which receive only hazardous wastes which are generated on-site, a base fee of 6,000 dollars plus an additional:

500 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);

- 500 dollars per each acre of remaining design capacity of land application operations; and
- 1 dollar per gallon per day (gpd) for the permitted injection capacity of injection well operations;
- (ii) For facilities which receive hazardous wastes from off-site generators, a base fee of 12,000 dollars plus an additional:
 - 1,000 dollars per each acre-foot of remaining design capacity of landfill operations (to include waste piles and surface impoundments used for disposal and subject to closure as landfills);
 - 1,000 dollars per each acre of remaining design capacity of land application operations; and
 - 1 dollar per gallon per day (gpd) for the permitted injection capacity of injection well operations.

5. Post-Closure Activity – These fees are applicable to facilities that require a permit, order, or other enforceable document under Rule 1200-1-11-.07 of the Rules governing hazardous waste management for the State of Tennessee. The owner or operator shall be assessed an annual fee set forth below:

- (i) For facilities conducting post-closure activities a base fee of 3,000 dollars plus an additional:
 - 1,000 dollars for each remediation system conducting active remediation for contaminated media.

6. Corrective Action Activity – These fees are applicable to facilities that require corrective action for Solid Waste Management Units (SWMUs) under Rule 1200-1-11-.07(5)(e) and Rule 1200-1-11-.06(6)(1). The owner or operator shall be assessed an annual fee set forth below:

- (i) For facilities conducting corrective action activities under the authority listed above, a base fee of 5,000 dollars plus an additional fee based on the type of ongoing corrective action at the facility.
 - 2,000 dollars for Confirmatory Sampling
 - 4,000 dollars for RCRA Facility Investigation
 - 3,000 dollars for Corrective Measures
 - 2,000 dollars for Interim Measures

(5) Annual Generator Fee

- (a) 1. The Annual Generator Fee for Small Quantity Generators shall be 550 dollars.
- 2. For the purpose of this subparagraph Small Quantity Generator shall mean:
 - (i) Any generator who generates greater than 100 kilograms, but less than 1000 kilograms of hazardous waste in any calendar month of the previous calendar year; or
 - (ii) Any Conditionally Exempt Small Quantity Generator who accumulates at any time more than 1000 kilograms of non-acute hazardous waste in the previous calendar year.

(Note: Rules 1200-1-11.02(1)(d)3(ii) and 1200-1-11.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)

- (b) 1. The Annual Generator Fee for Large Quantity Generators shall be 900 dollars.
- 2. For the purpose of this subparagraph Large Quantity Generator shall mean:
 - (i) Any generator who generates 1000 kilograms or more of hazardous waste in any calendar month of the previous calendar year; or
 - (ii) Any generator who generates 1 kilogram or more of acute hazardous waste, or 100 kilograms or more of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill, into or on any land or water, of an acute hazardous waste, in any calendar month of the previous calendar year; or
 - (iii) Any Conditionally Exempt Small Quantity Generator who violates any provision of Rule 1200-1-11-.02(1)(e)7 other than subpart (ii).

(Note: Rules 1200-1-11-.02(1)(d)3(ii) and 1200-1-11-.02(1)(e)3 and 4 are applicable in determining generator status for fee purposes.)

- (c) The waste generated from the containment and cleanup of an inactive hazardous substance site (Superfund) or the waste generated from the cleanup of a spill on public property shall not be subject to the fee calculations in (a) or (b).
- (d) A Conditionally Exempt Small Quantity Generator does not owe a fee if neither subparagraphs (a) nor (b) of this paragraph are applicable.
- (e) These fees shall be paid no later than March 1 of each year.

(6) Construction Inspection Fee

Prior to the beginning of any construction, at any unit, a permittee shall pay a Construction Inspection Fee for each item to be constructed based upon the class of modification of the item using Appendix I, Classification of Permit Modification, in Rule 1200-1-11-.07(10), as follows:

	Class 3*	Class 2	Class ¹ 1	Class 1
Storage Unit	\$2,000	\$1,500	\$1,000	\$200
Treatment Unit	\$4,000	\$3,000	\$2,000	\$400
Disposal Unit	\$4,000	\$3,000	\$2,000	\$400
Post Closure Unit	\$4,000	\$3,000	\$2,000	\$400

*Also applies to newly permitted units not as yet constructed.

(7) Mixed Wastes Treatment Plan Review Fee

Any person who requests approval by the Department of a mixed waste treatment plan is assessed a mixed waste treatment plan review fee that is equal to all cost associated with the Department’s review of the initial mixed waste treatment plan, any update to the mixed waste treatment plan, and/or any revision(s) to the mixed waste treatment plan. Costs shall include, but not be limited to mileage, lab expense, the current hourly rate and benefits for the Department’s employees actively involved in review activities, including preparation for and attendance at meetings, the current Department overhead rate, and costs billed by Department contractor(s). Costs shall not include Part A and Part B permit review expenses that are recovered through other applicable fees. The Department shall

provide a person subject to this rule with quarterly statements reflecting review cost posted during the previous quarter. All review costs reflected on a persons quarterly statement shall be paid to the Department within thirty (30) days of their receipt of the invoice.

Authority: T.C.A. §§68-212-107(d), 68-212-108, and 68-203-101 et seq.

Subpart (8)(m)2(i), Item (8)(m)2(ii)(I), and Appendix VIII of Rule 1200-1-11-.09 Standards For the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities are amended by deleting them in their entirety and substituting the following so that, as amended, they shall read as follows:

Rule 1200-1-11-.09(8)(m)2(i)

(i) Comparison of Waste-derived Residue With Normal Residue

The waste-derived residue must not contain Appendix VIII, Rule 1200-1-11-.02(5) constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the hazardous waste, and the organic compounds listed in Appendix VIII of this Rule that may be generated as products of incomplete combustion. Sampling and analyses shall be in conformance with procedures prescribed in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, listed in Rule 1200-1-11-.01(2)(b). For polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed to determine specific congeners and homologues, and the results converted to 2, 3, 7, 8-TCDD equivalent values using the procedure specified in section 4.0 of appendix IX of this Rule.

(I) Normal Residue

Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95% confidence with a 95% proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Bevill Residue Determinations" in Appendix IX of this Rule.

(II) Waste-derived Residue

Waste-derived residue shall be sampled and analyzed as often as necessary to determine whether the residue generated during each 24-hour period has concentrations of toxic constituents that are higher than the concentrations established for the normal residue under item 2(i)(I) of this subparagraph. If so, hazardous waste burning has significantly affected the residue and the residue shall not be excluded from the definition of a hazardous waste. Concentrations of toxic constituents of concern in the waste-derived residue shall be determined based on analysis of one or more samples obtained over a 24-hour period. Multiple samples may be analyzed, and multiple samples may be taken to form a composite sample for analysis provided that the sampling period does not exceed 24 hours. If more than one sample is analyzed to characterize waste-derived residues generated over a 24-hour period, the concentration of each toxic constituent shall be the arithmetic mean of the concentrations in the samples. No results may be disregarded; or

Rule 1200-1-11-.09(8)(m)2(ii)(I)

(I) Nonmetal Constituents

The concentration of each nonmetal toxic constituent of concern (specified in subpart 2(i) of this subparagraph) in the waste-derived residue must not exceed the health-based level specified in Appendix VII of this Rule, or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher. If a health-based limit for a constituent of concern is not listed in Appendix VII of this Rule, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures prescribed in SW-846, or other appropriate methods), whichever is higher, shall be used. The levels specified in Appendix VII of this Rule (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of Appendix VII of this Rule) are administratively stayed under the condition, for those constituents specified in subpart 2(i) of this subparagraph, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Rule 1200-1-11-.10(3)(d) for FO39 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts as defined by applicable Department guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by Rule 1200-1-11-.10(3)(d) for FO39 nonwastewaters. In complying with the Rule 1200-1-11-.10(3)(d) FO39 nonwastewater levels for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans, analyses must be performed for total hexachlorodibenzo-p-dioxins, total hexachlorodibenzofurans, total pentachlorobibenzo-p-dioxins, total pentachlorodibenzofurans, total tetrachlorodibenzo-p-dioxins, and total tetrachlorodibenzofurans. Note to this paragraph:

Note to this paragraph: The administrative stay, under the condition that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in § 268.43 of this chapter for FO39 nonwastewaters, remains in effect until further administrative action is taken and notice is published in the Federal Register and the Code of Federal Regulations.

Rule 1200-1-11-.09 Appendix VIII

Appendix VIII-Potential PICs for Determination of Exclusion of Waste-derived Residues [40 CFR 266 APPENDIX VIII]

PICs Found in Stack Effluents

Volatiles	Semivolatiles
Benzene	Bis(2-ethylhexyl)phthalate
Toluene	Naphthalene
Carbon tetrachloride	Phenol
Chloroform	Diethyl phthalate
Methylene chloride	Butyl benzyl phthalate
Trichloroethylene	2,4-Dimethylphenol
Tetrachloroethylene	o-Dichlorobenzene
1,1,1-Trichloroethane	m-Dichlorobenzene
Chlorobenzene	p-Dichlorobenzene
cis-1,4-Dichloro-2-butene	Hexachlorobenzene
Bromochloromethane	2,4,6-Trichlorophenol
Bromodichloromethane	Fluoranthene
Bromoform	o-Nitrophenol
Bromomethane	1,2,4-Trichlorobenzene
Methylene bromide	o-Chlorophenol
Methyl ethyl ketone	Pentachlorophenol Pyrene Dimethyl phthalate
Mononitrobenzene 2,6-Toluene diisocyanate Polychlorinated dibenzo-p-dioxins ¹ Polychlorinated dibenzo-furans ¹	

¹ Analyses for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans are required only for residues collected from areas downstream of the combustion chamber (e.g., ductwork, boiler tubes, heat exchange surfaces, air pollution control devices, etc.).

Authority: T.C.A. Sections 4-5-202 and 68-212-101 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 only at the Environmental Assistance Centers located as follows:

Memphis Environmental Assistance Center
 Perimeter Office Park, Suite E 645
 2510 Mt. Moriah Road
 Memphis, TN 38115-1520
 (901) 368-7939/ 1-888-891-8332

Cookeville Environmental Assistance Center
 1221 South Willow Avenue
 Cookeville, TN 38501
 (931) 432-4015/ 1-888-891-8332

Jackson Environmental Assistance Center
 362 Carriage House Drive
 Jackson, TN 38305-2222
 (901) 661-6200/ 1-888-891-8332

Chattanooga Environmental Assistance Center
 State Office Building, Suite 550
 540 McCallie Avenue
 Chattanooga, TN 37402-2013
 (423) 634-5745/ 1-888-891-8332

Nashville Environmental Assistance Center
 711 R. S. Gass Blvd.
 Nashville, TN 37243
 (615) 687-7000/ 1-888-891-8332

Knoxville Environmental Assistance Center
 State Plaza, Suite 220
 2700 Middlebrook Pike
 Knoxville, TN 37921-5602
 (865) 594-6035/ 1-888-891-8332

Columbia Environmental Assistance Center
 2484 Park Plus Drive
 Columbia, TN 38401
 (931) 380-3371/ 1-888-891-8332

Additional review copies only are available at the following library locations:

E. G. Fisher Public Library
 1289 Ingleside Ave.
 Athens, TN 37371-1812
 (423) 745-7782

Clarksville-Montgomery County Public Library
 350 Pageant Lane, Suite 501
 Clarksville, TN 37040-0005
 (931) 648-8826

Art Circle Public Library
 154 East First Street
 Crossville, TN 38555-4696
 (931) 484-6790

McIver's Grant Public Library
 204 North Mill Street
 Dyersburg, TN 38024-4631
 (901) 285-5032

Kingsport Public Library
 400 Broad Street
 Kingsport, TN 37660-4292
 (423) 229-9488

Coffee County-Manchester Public Library
 1005 Hillsboro Highway
 Manchester, TN 37355-2099
 (931) 723-5143

W. G. Rhea Public Library
 400 West Washington Street
 Paris, TN 38242-0456
 (901) 642-1702

Hardin County Library
 1013 Main Street
 Savannah, TN 38372-1903
 (901) 925-4314

The "DRAFT" rules may also be accessed for review using <http://www.state.tn.us/environment/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). They may be purchased at the central office location by calling or writing Mr. Bill McDuffee at:

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
5th Floor, L & C Tower
401 Church Street
Nashville, TN 37243-1535
(615) 532-0835

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, 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 Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Mr. Gerald Ingram; 5th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0850 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, November 2, 2000 in order to assure consideration. For further information, contact Mr. Gerald Ingram at the above address or telephone number.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-38)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF SOLID WASTE MANAGEMENT

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, acting on behalf of the Tennessee Solid Waste Disposal Control Board, to consider the adoption and promulgation of rules and amendments to rules pursuant to the Tennessee Code Annotated Sections 68-212-106, 68-212-107, 68-212-108, 68-212-109, 68-212-110 and 68-212-114; the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-211-101 et seq; the Tennessee Environmental Protection Fund Act, Tennessee Code Annotated, Section 68-203-101 et seq; the Used Oil Collection Act of 1993, Tennessee Code Annotated, Section 68-211-1001 et seq and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 in the 5th Floor Large Conference Room, L & C Tower, 401 Church Street, Nashville, Tennessee at 1:00 p.m. CDT on October 18, 2000.

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 contact may be in person or by writing, telephone, or other means, and should be made no less than ten days prior to October 18, 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, Issac Okoreeh-Bahh, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUMMARY OF PROPOSED RULES**REVISION “U” PROPOSED HAZARDOUS WASTE RULES**

This rulemaking includes multiple and various additions, deletions and modifications to Rule Chapter 1200-1-11 Hazardous Waste Management and Rule Chapter 1200-1-14 Commercial Hazardous Waste Management Facilities. Many of these changes are proposed in response to revisions and additions published in Federal Registers that the U. S. Environmental Protection Agency (EPA) made primarily between September 30, 1999 and July 10, 2000 to the corresponding Federal Regulations. These amendments are intended to make the State’s Regulations equivalent to their Federal counterparts. They include certain technical corrections, definitions, housekeeping changes, clarifications, reference changes, typos, and other corrections. Standards for hazardous waste incinerators, hazardous waste burning cement kilns, and hazardous waste burning lightweight aggregate kilns are being revised to limit emissions of toxic organic compounds and metals, hydrochloric acid, chlorine gas, and particulate matter. The maximum achievable control technology (MACT) standards associated with the Clean Air Act are being integrated with the hazardous waste program. A one-time notification for shipping hazardous soil is being added. Large quantity generators of F006 sludge (from the treatment of electroplating waste waters) are being allowed up to 180 days (or 270 days) to accumulate F006 waste without a permit provided that these wastes are recycled through metals recovery and meet certain requirements. Proposed “Housekeeping” modifications include, but are not limited to, adding new and modifying certain existing hazardous waste management fees, requiring the applicant/permittee to give all public notices except for permit denials, removing cross-reference language where the reference no longer exists, clarifying certain procedures, and clarifying that “surety companies” issuing certain bonds in Tennessee must be among those listed as acceptable sureties on Federal bonds in circular 570 of the U.S. Department of the Treasury and must have at least a certain rating or special approval of the Commissioner.

The notice of Rulemaking Hearing set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-35)

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

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation, Division of Water Pollution Control, acting on behalf of the Tennessee Water Quality Control Board, to consider the adoption and promulgation of rules and amendments to rules pursuant to the Tennessee Code Annotated (T.C.A.) Section 69-3-101 et seq., Public Chapter 680 of the Acts of 2000, and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 following times and locations:

DATE	HEARING LOCATION	TIME
October 26, 2000	Pellissippi State Technical Community College 10915 Hardin Valley Rd Knoxville, TN 37933 Goins Administration Bldg. Auditorium Parking permitted in open lot #3 (03) ONLY	7:00 p.m. EDT
October 30, 2000	Ellington Agricultural Center Ed Jones Auditorium 440 Hogan Road Nashville, TN 37220	7:00 p.m. CST
November 2, 2000	West Tennessee Experiment Station Room 158 605 Airways Blvd. Jackson, TN 38301	7:00 p.m. CST

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 contact may be in person or by writing, telephone, or other means, and should be made no less than ten days prior to the specified scheduled meeting date 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, Issac Okoreeh-Baah, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUBSTANCE OF PROPOSED RULES

New Rule Chapter 1200-4-12 Silvicultural Activity Stop Work Orders shall read as follows:

NEW RULE

TABLE OF CONTENTS

1200-4-12-.01 Silvicultural Activity Stop Work Orders – General	1200-4-12-.04 Penalties
1200-4-12-.02 Silvicultural Activity Stop Work Orders – Procedures	1200-4-12-.05 Meetings, Appeals, and Hearings.
1200-4-12-.03 Notification by Operators with a Finding of Violation	

1200-4-12-.01 SILVICULTURALACTIVITY STOPWORK ORDERS – GENERAL

- (1) General

(a) Purpose, Scope and Applicability

The purpose of this rule chapter is to implement the amendment to the Tennessee Water Quality Control Act, Tennessee Code Annotated, §§69-3-101 et seq., by Public Chapter 680 of the Acts of 2000. This statute gives the Commissioner new authority to alleviate pollution of waters of the state when caused by silvicultural activities due to the operator’s failure or refusal to employ forestry best management practices (BMPs). Under the Act, the Commissioner of the Department of Environment and Conservation may issue a stop work order to the operator of the silvicultural activities, the order remaining in force until such time as compliance is achieved and water pollution is abated. This rule chapter also implements a requirement for notification of silvicultural activities to the Commissioner of Environment and Conservation and to the Commissioner of Agriculture prior to commencement of any such activities by operators who have been formally found to have violated the Tennessee Water Quality Control Act related to silvicultural activities within the past two years.

These rules are promulgated specifically in response to the directive in §6 of Public Chapter 680 for criteria and procedures for the issuance, appeal, and suspension of Stop Work Orders.

(b) Use of 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.

(c) 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) subsection

(2) Definitions

When used in this Rule the following terms have the meanings given below unless otherwise specified:

“Act” means P.Ch. 680 of the Acts of 2000.

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

“Date of a finding of violation” means the date of issuance of a Commissioner’s Order or Stop Work Order or the date of entry of a court order.

“Finding of violation” means a Commissioner’s Order, a Stop Work Order, or a ruling, order, or judgment of a court that makes a finding that an operator has violated the Water Quality Control Act in the conduct of silvicultural activities.

“Forestry best management practices” or “BMP’s” mean those land and water resource conservation measures that prevent, limit, or eliminate water pollution for forest resource management purposes, as provided in Tennessee Department of Agriculture rules for forestry best management practices, Rule Chapter 0800-7-2 and the interim forestry BMP’s specifically identified by the Department of Agriculture pursuant to §1 of the Act.

“Silvicultural activities” means those forest management activities associated with the harvesting of timber and including without limitation the construction of roads and trails.

“Operator” as used in context of silvicultural activities, means any person(s) that conducts or exercises control over any silvicultural activities; provided, however, that the term “operator” shall not include an owner if the silvicultural activities are being conducted by an independent contractor.

“Owner” as used in the context of silvicultural activities, means any person(s) that owns or leases land on which silvicultural activities occur or owns timber on land on which silvicultural activities occur.

“Stop Work Order” means an order issued by the Commissioner of the Department of Environment and Conservation requiring the operator to immediately cease part or all silvicultural activities.

1200-4-12-.02 SILVICULTURAL ACTIVITY STOP WORK ORDERS – PROCEDURES

- (1) Procedures
 - (a) Upon receipt by either the Tennessee Department of Environment and Conservation (TDEC) or Tennessee Department of Agriculture (TDA) of a complaint alleging that water pollution has occurred as a result of silvicultural activities, either TDEC or TDA, or both will conduct an investigation of the alleged complaint.
 - (b) The operator will be given the opportunity to employ forestry best management practices, or other such remedial actions as are necessary, to come into compliance prior to commencing to obtain a Stop Work Order, except when the Commissioner deems otherwise necessary to address water pollution.
 - (c) Following a joint investigation or site visit by TDEC and/or TDA, if a Stop Work Order is deemed necessary to abate pollution of waters of the State, TDEC shall begin procedures to issue a Stop Work Order when all of the following three (3) criteria are met:
 1. An operator has failed or refused to use forestry best management practices (BMP); and
 2. A point source discharge has been created as a result of failure or refusal to use BMPs; and
 3. Waters of the State have been polluted as a result of silvicultural activities.

- (d) A request for Stop Work Order will be completed by TDEC staff, and a Stop Work Order will be submitted to the Commissioner for his consideration. The Commissioner of the Department of Environment and Conservation may issue the Stop Work Order against the operator, following consultation with the Commissioner of Agriculture.
- (e) The Stop Work Order
 - 1. The Stop Work Order shall contain at a minimum the following information:
 - (i) The name and address of the operator;
 - (ii) The name and address of the owner if different than the operator;
 - (iii) The location of the silvicultural activity;
 - (iv) The waterbody affected by the pollution;
 - (v) A description of the failure or refusal to use BMPs;
 - (vi) The nature of the point source discharge created by the activity; and
 - (vii) A description of the water pollution which has occurred.
 - 2. If the owner is different than the operator, the Commissioner shall at the same time notify the owner that a Stop Work Order has been issued to the operator by delivering a copy of the Stop Work Order to the owner.
 - 3. The Stop Work Order may require that the operator cease the silvicultural activities that are contributing to such pollution. this may include all of the silvicultural activities if they all contribute to the pollution.
 - 4. The Stop Work Order shall remain in effect until the operator installs forestry best management practices that eliminate existing pollution and prevent further pollution associated with the silvicultural activities.

1200-4-12-.03 NOTIFICATION BY OPERATORS WITH A FINDING OF VIOLATION

- (1) No operator with a finding of violation that has not been overturned on appeal shall begin silvicultural activities within two years of the date of the finding of violation unless the operator has filed a written notification of the start of said silvicultural activities with the Commissioner of Agriculture and with the Commissioner of Environment and Conservation as required by paragraph 1200-4-12-.03(2).
- (2) At least ten (10) days prior to commencement of silvicultural activities, the operator with such a finding of violation shall file a written notification with the Commissioner of Agriculture and with the Commissioner of the Department of Environment and Conservation. Such notification shall include the following information:
 - (a) The name and address of the owner, and the name and address of the operator, if different than the owner; and
 - (b) The location of the silvicultural activities and estimated acreage; and

- (c) The anticipated beginning date for, and the anticipated duration of, the silvicultural activities.

1200-4-12-.04 PENALTIES

- (1) As provided in §5 of the Act, if an operator fails to give the notice required by rule 1200-4-12-.03 and §3 of the Act, or to comply with a stop work order issued pursuant to rule 1200-4-12-.02 and §2 of the Act, the Commissioner may assess civil penalties against the operator of up to \$10,000.00 per day for each day such failure continues pursuant to Tennessee Code Annotated, §69-3-115(a)(1)(E).

1200-4-12-.05 MEETINGS, APPEALS, AND HEARINGS.

- (1) An appeal or request for hearing of any Stop Work Order issued by the Commissioner of the Department of Environment and Conservation shall be made to the Water Quality Control Board in writing by the operator and filed with the Commissioner of the Department of Environment and Conservation within thirty days of receipt of notice of the Stop Work Order.
- (2) If an appeal or hearing is requested, the operator shall also be afforded the opportunity to meet with the Commissioner of the Department of Environment and Conservation or, at the Commissioner's option, meet with the deputy or assistant commissioner, within three (3) working days after the hearing request is filed, to discuss the alleged violation and show cause why a stop work order should not have been issued. Such a meeting shall be an informal event in the nature of a settlement discussion and shall not be a contested case within the meaning of the Uniform Administrative Procedures Act, §§4-5-101 et seq.
- (3) If, as a result of such a meeting, the Commissioner decides to make any modification or revocation of the Stop Work Order, it shall be accomplished in writing after consultation with the Commissioner of the Department of Agriculture. Both the Stop Work Order and any document modifying or revoking it shall be public records.
- (4) If the Commissioner or his designee upholds the Stop Work Order, it shall remain in effect until resolution of the appeal or the operator comes into compliance.
- (5) If no request for hearing is made within thirty (30) days of receipt of the Stop Work Order, the Stop Work Order becomes final and not subject to review. The Commissioner may seek injunctive relief in a court of competent jurisdiction, if necessary, to enforce any final order.
- (6) If an operator who files a request for a hearing before the Water Quality Control Board either does not seek the informal meeting described in paragraphs (2) through (4) of this rule, or is not satisfied with the result of such a meeting, the matter shall be resolved through the process for contested case hearings before the Board under the Uniform Administrative Procedures Act, §§4-5-101 et seq.

Authority: *Tennessee Code Annotated (T.C.A) Section 69-3-101 et seq., and Public Chapter 680 of the Acts of 2000.*

OTHER INFORMATION

The Division of Water Pollution Control has prepared a set of draft rules for public review and comment. Copies of the draft rules are available for review at the following locations:

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Environmental Assistance Center
2510 Mt. Moriah, Suite E 645
Perimeter Park
Memphis, TN 38115-1520
(901) 368-7939

Environmental Assistance Center
1221 South Willow Avenue
Cookeville, TN 38501
(931) 432-4015

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

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

Environmental Assistance Center
711 R. S. Gass Boulevard
Nashville, TN 37243
(615) 687-7000

Environmental Assistance Center
2700 Middlebrook Pike, Suite 220
Knoxville, TN 37921-5602
(423) 594-6035

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

Environmental Assistance Center
2484 Park Plus Drive
Columbia, TN 38401
(931) 380-3371

Tennessee Department of Agriculture

Forestry Division
312 Tusculum Blvd.
Greeneville, TN 37745
(423) 636-8805

Forestry Division
2416 Fletcher Luck Lane
Knoxville, TN 37916
(865) 594-6432

Forestry Division
5530 Highway 153
Hixson, TN 37343
(423) 634-3091

Forestry Division
390 So. Lowe Street, Suite 10
Cookeville, TN 38501-4702
(931) 526-9502

Forestry Division
3497 Church Street
Burns, TN 37029
(615) 797-3117

Forestry Division
220 Eastern Shores Drive
Lexington, TN 38351
(901) 968-6676

The "DRAFT" rules may also be accessed for review using <http://www.state.tn.us/environment/new/htm> to locate the Department of Environment and Conservation's World Wide Web Site and www.state.tn.us/agriculture/forestry/forestry.html to locate the Department of Agriculture's World Wide Web Site.

Copies are also available at the respective Nashville Central Offices (see addresses below).

Tennessee Department of Environment and Conservation
 Division of Water Pollution Control
 Mr. Chris Moran
 6th Floor, L & C Tower
 401 Church Street
 Nashville, TN 37243
 (615) 532-0672
 Fax (615) 532-0503

Tennessee Department of Agriculture
 Division of Forestry
 Mr. Ken Arney
 Ellington Agricultural Center
 Nashville, TN 37204
 (615) 837-5411
 Fax (615) 837-5003

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearings. In addition, written comments may be submitted prior to or after the public hearings to either of the above two addresses. However, such written comments must be received by 4:30 PM CST, November 17, 2000 in order to assure consideration.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-34)

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

There will be a series of 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 pursuant to Tennessee Code Annotated, Section 69-3-101 et seq., Public Chapter 584 of the Acts of 2000, and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 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 LOCATION	TIME
October 17, 2000	Knoxville Utilities Board Power Operations Center Corporate Services Bldg. 4505 Middlebrook Pike Knoxville, TN 37921 Contact: Barbara Gregory: 865-558-2230	2:00 p.m. EDT

October 20, 2000

7:00 p.m. CDT

L & C Tower
 17th Floor
 Nashville, TN 37243
 Contact: Glenda Stiles: 615-532-0637

October 26, 2000

2:00 p.m. EDT

Chattanooga EAC
 540 McCallie Ave
 Suite 550, State Office Bldg.
 Chattanooga, TN 37402
 Contact: Andra Kelly: 423-634-5745

Individuals with disabilities who wish to participate in these proceedings or to review these filings should contact ADA Coordinator, Isaac Okoreeh-Baah, L& C Tower, 7th Floor Annex, 401 Church Street, Nashville, TN 37243, (615) 532-0059. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298). 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.

SUBSTANCE OF PROPOSED RULES

**DIVISION OF WATER POLLUTION CONTROL
 THE WATER QUALITY CONTROL BOARD**

CHAPTER 1200-4-13

NEW RULES

New Rule Chapter 1200-4-13, Inter-basin Water Transfers shall read as follows:

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1200-4-13-.01 Purpose, Scope, and Applicability	1200-4-13-.07 General Permits
1200-4-13-.02 Definitions	1200-4-13-.08 Enforcement and penalties
1200-4-13-.03 Individual Permit Applications	1200-4-13-.09 Hearings
1200-4-13-.04 Public Involvement	1200-4-13-.10 Annual Certification
1200-4-13-.05 Criteria for Issuance of Individual Permits	1200-4-13-.11 Protected Areas
1200-4-13-.06 Permit Terms and Conditions	

1200-4-13-.01 PURPOSE, SCOPE, AND APPLICABILITY

- (1) Purpose of The Inter-Basin Water Transfer Act

As the population and demand for water resources grow, it is prudent to engage in planning for the future and to have an explicit mechanism in place to regulate proposals for the diversion of water from one river basin to another. By removing water from rivers, such inter-basin transfers raise issues of the protection of the public health, safety,

welfare and the environment, as the water is no longer available for use in the original stream. The primary purpose of The Inter-basin Water Transfer Act is to allow regulation on the basis of the quantity of water in river basins. Although the common law addresses some of these concerns, it relies on after-the-fact litigation rather than a modern regulatory system. As The Inter-basin Water Transfer Act is remedial and police power legislation, the General Assembly has declared that it shall be liberally construed to effectuate its purpose.

(2) Purpose of this Rule Chapter

The purpose of this Rule Chapter is to implement The Inter-basin Water Transfer Act through establishing procedures and requirements for permit application, processing, terms and conditions for permits, and otherwise regulate the inter-basin transfer of water.

(3) Who must apply for a permit

(a) All persons or entities:

- (a) which have been granted powers by the State of Tennessee to acquire water, water rights and associated property by eminent domain or condemnation; or
- (b) which acquire or supply water for the use or benefit of public water supply systems as defined in Title 68, Chapter 221, Section 703,

shall, when proposing a new or increased withdrawal of surface water or ground water for the purpose of transferring and/or diverting some or all of it out of a river basin either directly or through one (1) or more intermediaries, first apply for and obtain a permit from the commissioner, or his or her designee, prior to such diversion or transfer; provided, however, that in the case of ground water withdrawal this section shall only apply if the loss of the ground water has a significant potential to adversely affect the flow of a Tennessee surface water.

(b) Subparagraph (a) states who must apply for a permit as it is stated in P.Ch. 584. Without limiting what is stated there, the following are examples of entities that must apply for a permit:

1. A new public water system whose service area will include an area that is outside of the basin of origin;
2. A public water system that proposes a new withdrawal point that is not in the same basin as some or all of the system;
3. A public water system that proposes to increase the amount it is withdrawing in order to transfer some or all of it to a system in a basin different from the basin of origin;
4. A public water system that proposes to increase the amount it is withdrawing in order to transfer some or all of it to another system in the basin of origin that will then transfer the water to a system in a basin different from the basin of origin; and
5. A private individual or corporation that proposes to withdraw water and transfer it to a public water system in a basin different from the basin of origin, either directly or through an intermediary.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.02 DEFINITIONS

When used in this Rule the following terms have the meanings given below unless otherwise specified:

“Act” means The Inter-basin Water Transfer Act, P.Ch. 584 of the Acts of 2000.

“Basin” or “river basin” means the entire topographic extent of the ten watersheds and combinations of watersheds named in §4 of the Act. Maps of these basins may be viewed at the department’s web site, currently at: <http://www.state.tn.us/environment/epo/basin/index.html>.

“Basin of origin” means the river basin where the point of withdrawal for a transfer is located.

“Board” means the Water Quality Control Board.

“Commissioner” means the commissioner of the department of environment and conservation or the commissioner’s duly authorized representative, or in the event of the commissioner’s absence, or a vacancy in the office of commissioner, the deputy commissioner.

“Department” means the department of environment and conservation.

“Downstream basin” means a basin that is downstream of the basin of origin.

“Intermediaries” means any water systems or other persons that receive water from a withdrawing system and either transfer it to another basin or pass it on to another intermediary.

“Losing river” or “Losing river basin” means a river or river basin which sustains a decrease in water as the result of a diversion or transfer of water to a different river basin and there is no significant return of the water to the river or river basin of origin.

“Permit” means an Inter-basin Water Transfer Permit. Permits are of two types, individual permits are issued for particular transfers after an application is made describing the particular project as provided in rules .03 through .06; general permits are issued by the commissioner for categories or classes of transfers and a person may be authorized for a transfer under the coverage of a general permit by filing a Notice of Intent, as provided in rule .07.

“Person” means any or all persons, including individuals, firms, partnerships, associations, limited liability companies, public or private institutions, municipalities or political subdivisions, federal or state governmental agencies, or private or public corporations organized under the laws of this state or any other state or country.

“Potentially affected communities” means those units of local government, e.g., municipalities, counties, or utility districts, that have a public water system that withdraws water from a river basin or municipalities that are located on the same stream downstream of a proposed transfer within fifty (50) river miles of the proposed withdrawal point.

“Potentially affected water users” means potentially affected communities and persons with an NPDES permit for a discharge, persons with a permit for a withdrawal of water, and downstream of a proposed transfer within fifty (50) river miles of the proposed withdrawal point.

“Receiving river basin” means a river basin which is the recipient of an increase in water, over and above that occurring naturally, as the result of a transfer of water from a different river basin.

“Return of water” or “return” means water that is returned to the basin of origin, or a downstream basin after a transfer to a different basin.

“Seven day, ten year low flow” or “7Q10 flow” or “low flow” means the lowest average daily flow for a duration of seven consecutive days with a recurrence interval of ten years and which is determined for the point of withdrawal from an unregulated stream, or for a withdrawal from a regulated stream, the minimum critical flow occurring once in ten years as determined by an analysis of records of operation and approved by the Commissioner.

“Significant potential to affect the flow” means, in the context of whether a ground water withdrawal is likely to affect a surface water, a withdrawal of ground water in a location that:

- (a) is in close proximity horizontally and vertically to a stream; and
- (b) has ground water with a significant degree of hydraulic connection to the surface water.

“Surface water” means any water located on the land surface which is not derived by pumping from groundwater.

“Transfer” means the withdrawal, diversion, or pumping of surface water from one river basin and the use or discharge of all or any part of the water in a basin different from the basin of origin.

“Transfer facility” means any natural or man-made structure used to effect a transfer including, but not limited to, pumps, pipelines, canals, storage units, water treatment units and wastewater treatment units.

“Withdrawal” means the diversion or pumping of water out of a surface stream or from ground water if the loss of the ground water has a significant potential to adversely affect the flow of a Tennessee surface water in the basin of origin, whether or not there is a transfer.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.03 INDIVIDUAL PERMIT APPLICATIONS

- (1) Information required in a permit application.

Any person required to apply for a permit for an inter-basin water transfer under rule 1200-4-13-.01(3) and §5 of the Act shall submit an application for such permit on forms furnished, upon request, by the commissioner. The application shall require an applicant to provide the commissioner the following information:

- (a) The volume of the proposed withdrawal and the proposed transfer stated in gallons per day that the applicant seeks to be authorized;
- (b) Identification of all of the withdrawal, return, and transfer points;
- (c) The volume of water that will be returned to the basin of origin or a downstream basin;
- (d) The peak capacity of each major component in the proposed withdrawal and transfer facilities;
- (e) Engineering and economic justification for the capacity of each major component of the proposed withdrawal and transfer facilities;
- (f) An assessment of the hydraulic and environmental impacts of the withdrawal on the losing river;
- (g) An engineering, environmental, and economic assessment of the feasibility of utilizing alternate water sources by the water system in the receiving basin;

- (h) A listing of conservation programs or practices occurring or proposed of the system in the receiving river basin;
 - (i) The proposed date upon which the water transfer is to commence;
 - (j) The purpose and justification for the proposed transfer; and
 - (k) Any other appropriate information deemed necessary by the commissioner for review of the proposed transfer.
- (2) All permit applications shall be signed as follows:
- (a) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation.
 - (b) For a partnership or sole proprietorship. By a general partner or the proprietor, respectively; or
 - (c) For a municipality, state, federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - (i) The chief executive officer of the agency, or
 - (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).
- (3) Interface with other required permits under the Act.
- (a) In some situations an activity may have to apply for both an inter-basin transfer permit and a permit under the Water Quality Control Act for the withdrawal. The latter is sometimes referred to as an Aquatic Resource Alteration Permit (ARAP). In such a situation the Division of Water Pollution Control shall have the applicant file one application for both permits that contains all information necessary for both and then shall process the application and either issue it with all conditions required by both Acts or deny it as required by either Act. The regulations for ARAP permits are found at 1200-4-7-.01 et seq.
- (4) Application Fees

The application fees for individual inter-basin transfer permits shall be \$1,000.00 for each 500,000 gallons per day, or fraction thereof, authorized to be transferred by the permit. This shall be calculated based upon the maximum amount authorized by the permit. This fee shall apply to new applications, renewals, or those modifications that extend the term of the permit. If an applicant for a permit modification only seeks an increase of the amount authorized to be transferred for the same permit term, then the fee shall be calculated on the basis of the difference in the two amounts.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.04 PUBLIC INVOLVEMENT

- (1) After receipt of an application, the department staff shall approve a Public Notice to seek public participation and comment on the application. The approved Public Notice shall be distributed to interested persons and shall be circulated within thirty days of receipt of a completed application as follows:

- (a) In order to inform interested and potentially interested persons of the proposed activity, the Public Notice will include the following information:
 - 1. Name, address, and telephone number of the applicant;
 - 2. Name and address of TDEC contact person;
 - 3. A brief description of the proposed withdrawal and transfer, including the volumes;
 - 4. The names of the specific waters affected by the proposed activity as well as the basin of origin and the receiving basin;
 - 5. The purpose of the proposed transfer;
 - 6. The procedure to submit comments on the proposed activity and the close of the comment period which shall not be sooner than thirty (30) days from receipt of the application;
 - 7. The procedure for requesting a public hearing; and
 - 8. A brief description of the procedure for the commissioner to make a final determination to issue a permit.
 - (b) TDEC will distribute the approved Public Notice to interested persons who have requested TDEC notify them of inter-basin transfer permit applications and by posting it on the TDEC website.
 - (c) The Applicant shall distribute the approved Public Notice as follows:
 - 1. Publish a notice of the permit application once a week for four consecutive weeks in a newspaper of general circulation in each potentially affected community in the river basin of origin;
 - 2. Provide notice of the application to a responsible official with each potentially affected community and water user within the proposed basin of origin by certified mail, return receipt requested; and
 - 3. Post a minimum of three public notices in public buildings, e.g., courthouses, libraries, city halls, in each potentially affected community in the river basin of origin.
- (2) During the comment period, any person who may be adversely affected by a water transfer may submit a statement to the commissioner briefly outlining why the person believes he may be adversely affected and making any comments in regard to permit issuance or denial or permit conditions. Upon receipt of such a statement, the commissioner will schedule a public hearing on the permit application. Notice shall be given of the public hearing at least thirty days prior to the hearing.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.05 CRITERIA FOR ISSUANCE OF INDIVIDUAL PERMITS

- (1) In reviewing a permit application, the commissioner shall consider information developed through studies, analyses, or inquiries undertaken by the commissioner and information and comments submitted to the commissioner by the applicant, public agencies, affected persons, and the public.

- (2) The following factors will be used by the commissioner in making a determination on a permit application:
- (a) the quantity of the proposed withdrawal and the stream flow of the losing river(s), with special concern for low flow conditions;
 - (b) protection of the present uses, and consideration of projected stream uses of the losing river(s), including but not limited to, present agricultural, municipal, industrial and in-stream uses, and assimilative needs, with special concern for low flow conditions;
 - (c) protection of the water quality in the losing river(s) at low flow conditions;
 - (d) the reasonably foreseeable future water needs of the losing river basin;
 - (e) the reasonably foreseeable future water needs of the applicant for the water to be transferred, including methods of water use, conservation, and efficiency of use;
 - (f) the beneficial impact of any proposed transfer, and the capability of the applicant to implement effectively its responsibilities under the requested permit;
 - (g) the nature of the applicant's use of the water, to determine whether the use is reasonable and beneficial;
 - (h) whether the proposed project shall promote conservation of water;
 - (i) the feasibility, the costs, and the environmental impacts of alternative sources of supply;
 - (j) the requirements of other state or federal agencies with authority relating to water resources;
 - (k) the availability of water in the losing river basin to respond to emergencies, including drought;
 - (l) whether the project shall have any beneficial or detrimental impact on navigation, hydropower or other power generation, fish and wildlife habitat, aesthetics, or recreation;
 - (m) the quantity, location, and timing of water returned to the basin of origin or a downstream basin;
 - (n) climatic conditions;
 - (o) any offsetting increases in flow in the basin of origin that may be arranged through permit conditions;
 - (p) the number of downstream river miles from which water will be diverted as a result of the transfer; and
 - (q) such other factors as are reasonably necessary to carry out the purposes of the Act and this rule chapter.
- (3) No transfer of water may be permitted at any time that would impair the classified uses of a losing river. Furthermore, no transfer of water shall cause the remaining flow in the losing river basin to be less than the seven day, ten year low flow as established prior to the inter-basin transfer unless a condition on the permit states that the transfer of water shall be required to cease when the instantaneous stream flow of the river of origin is equal to or less than a specified value.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.06 TERMS AND CONDITIONS FOR INDIVIDUAL PERMITS

- (1) Based upon review of all pertinent information the commissioner may issue, deny or issue a permit with conditions.
- (2) When issuing a permit, the commissioner may include conditions in the permit, including but not limited to the following:
 - (a) The amount of water approved for transfer may be varied seasonally;
 - (b) The transfer of water shall be required to cease or decrease when the instantaneous stream flow of the river basin of origin is equal to or less than a specified value;
 - (c) Special provisions in order to promote an adequate water supply for the state or to mitigate any future adverse conditions resulting from the transfer;
 - (d) Installation, maintenance and use of stream flow monitoring equipment;
 - (e) Establishment and reporting of transfer activities by the permittee.
- (3) Upon the issuance by the Governor of a declaration or proclamation of an emergency relating to water resources, the commissioner may:
 - (a) waive the usual permitting requirements and issue a temporary emergency transfer permit. Any such permit must be limited to meet the needs created by the emergency, and any such permit may be issued for a period no longer than six months or the duration of the Governor's declaration or proclamation, whichever period is shorter; or
 - (b) modify or revoke and reissue any inter-basin transfer permit.
- (4) Permits shall be issued for a renewable term of not more than five years. The commissioner may coordinate permits with the issuance cycle for NPDES permits in a watershed.
- (5) Permits may contain such terms and conditions as are appropriate to carry out the purposes of the Act and this chapter. This includes, but is not limited to, provisions for filing periodic reports on the amount transferred and the flow in the losing river.
- (6) Applicants may apply for permit modifications to increase the authorized transfer amount or for other reasons within the term of the permit.
- (7) The Commissioner may modify, suspend, or revoke a permit for the reasons specified in section 7 of the Act.
- (8) A transfer permit may be renewed following a full review by the commissioner of all past and current information relating to the transfer. An application for transfer permit renewal shall be filed by the applicant with the commissioner a minimum of six months prior to permit expiration.
- (9) No permit may be transferred from one person to any other person except upon review and approval by the commissioner. In reviewing a request for a permit transfer, the commissioner may modify any of the permit terms.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.07 GENERAL PERMITS

- (1) The commissioner may issue a general permit for a category of transfer activities. Such permits shall be issued using the same process of public notification as would be used for an individual permit except that the department will bear the costs involved. Such permits shall require:
 - (a) that any person intending to make use of a general permit for authorization of any transfer must file a Notice of Intent and pay the processing fee specified in the general permit; and
 - (b) that the department will issue a response either confirming that the general permit is applicable or stating why it is not and directing the person to file an individual permit application.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.08 ENFORCEMENT AND PENALTIES

- (1) Any person who
 - (a) fails to make a timely application or renewal application for a permit required by the Act;
 - (b) commences an inter-basin transfer without having obtained a permit under the Act and these rules;
 - (c) fails to comply with the terms of a permit; or
 - (d) fails to submit a true and accurate report required by the Act and these rules; is subject to a penalty of up to \$10,000.00 per day per violation as provided in §9 of the Act.
- (2) The commissioner is also authorized to file an action in court to address any violation of the Act seeking any remedy available under the Act or at common law.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.09 HEARINGS

- (1) Any person actually aggrieved by the decision of the commissioner to grant or deny a transfer permit may request a hearing before the Water Quality Control Board by filing a written petition within 30 days of the issuance of the decision. With the exception of an applicant for a transfer permit, any person who has not submitted a written comment under 1200-4-13-.04 above, indicating how such person will be adversely affected by a water transfer in a manner or to a degree significantly different from the general public, is not an aggrieved party within the meaning of these rules.
- (2) Any person named in a Commissioner's Order or assessment may request a hearing before the Water Quality Control Board by filing a written petition within 30 days of the receipt of the order or assessment. The petition shall set forth the grounds and reasons for the appeal. If such a petition is not filed within the 30 days, the violator shall be deemed to have consented to the assessment and it shall become final.
- (3) Any such hearing will be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, T.C.A. §4-5-301 et seq.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.10 ANNUAL CERTIFICATION

- (1) On or before October 1, any person who operated an existing inter-basin transfer on May 31, 2000, either directly or through one or more intermediaries, shall file with the department a statement under oath certifying that there has been no increase in the transfer together with flow or pumping records documenting the amount transferred. The department may develop a form for this purpose.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

1200-4-13-.11 PROTECTED AREAS

Protected areas, as provided for in section 12 of the Act, may be established through a rulemaking action by the Water Quality Control Board. Any person desiring to have such an area established may request this action by sending a letter to the Board stating the basis for such action. The Uniform Administrative Procedures Act also allows a more formal process for requesting a rulemaking action in T.C.A. §4-5-201.

Authority: T.C.A. §§69-3-105, P.Ch. 854, Acts of 2000, 4-5-101 et seq.

OTHER INFORMATION

The Division of Water Pollution Control has prepared a set of draft rules for public review and comment. Copies of the draft rules are available for review at the following locations:

Tennessee Department of Environment and Conservation

Environmental Assistance Center
2510 Mt. Moriah, Suite E 645
Perimeter Park
Memphis, TN 38115-1520
(901) 368-7939

Environmental Assistance Center
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Cookeville, TN 38501
(931) 432-4015

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362 Carriage House Drive
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Chattanooga State Office Building
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Chattanooga, TN 37402
(423) 634-5745

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Joelton, TN 37080
(615) 299-8451

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(615) 226-6918

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Columbia, TN 38401
(931) 380-3371

The "DRAFT" rules may also be accessed for review using <http://www.state.tn.us/environment/new/htm> to locate the Department of Environment and Conservation's site on the World Wide Web.

Copies are also available at the Water Pollution Control Division Central Office:

Tennessee Department of Environment and Conservation
Division of Water Pollution Control
Ms. Glenda Stiles
6th Floor, L & C Tower
401 Church Street
Nashville, TN 37243
(615) 532-0672
Fax (615) 532-0503

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

Oral or written comments are invited at the hearings. In addition, written comments may be submitted prior to or after the public hearings to the above address. However, such written comments must be received by 4:30 PM CST, November 3, 2000 in order to assure consideration.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-33)

DEPARTMENT OF HEALTH - 1200
DIVISION OF EMERGENCY MEDICAL SERVICES

There will be a hearing before the Division of Emergency Medical Services to consider the promulgation of amendments of rules pursuant to T.C.A. §§ 68-140-504, 68-104-508, and 68-140-509. 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, Ground Floor, located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m., Central Standard Time, on the 17th day of November, 2000.

Any individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Department of Health, Division of Emergency Medical 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 plans to review such filings, to allow time for the Division of Emergency Medical Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the department's ADA coordinator at the Andrew Johnson Tower, 11th Floor, 710 James Robertson Parkway, Nashville, TN 37243-0675, or 615-741-6350.

For a copy of the entire text of the notice of rulemaking, contact Joseph B. Phillips, Director, Division of Emergency Medical Services, Cordell Hull Building, First Floor, 425 Fifth Avenue North, Nashville, TN 37247-00701, 615-741-2584.

SUBSTANCE OF PROPOSED RULES

1200-12-1-.12 Authorization of Emergency Medical Technician Instructor/Coordinators is amended by deleting the language of the existing rule in its entirety and inserting the following language so that, as amended, the rule shall read:

- (1) EMS Program Director/Administrator shall mean an individual responsible for the overall coordination of all EMS Programs. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community, and the Division of Emergency Medical Services. The individual is also responsible for the recruitment and continued development of faculty to meet the needs of the institution.

The minimal qualifications for Program Director shall be:

- (a) Bachelors degree required from a regionally accredited college/university (preferably in allied health, education, or business administration.)
 - (b) The program director should have at least equivalent academic training and preparation, and hold all credentials for which the students are being prepared in the program, or hold comparable credentials which demonstrate at least equivalent training and preparation.
 - (c) Professional license must be free from history of revocation, denial or suspension.
 - (d) Prehospital experience shall include a minimum of three years practicing in the pre-hospital environment or equivalent. Administrative: Minimum of two years in EMS education administration.
 - (e) Current endorsement in a Board approved trauma, cardiac, and pediatric course at the provider level.
- (2) EMT-Paramedic Instructor/Coordinator shall mean a full-time employee responsible for the delivery of instruction in accredited Paramedic Programs. The individual shall be knowledgeable in all aspects of prehospital care, capable of applying techniques and modalities of adult education, and of managing resources and resource personnel.

- (a) The minimal qualification for EMT-Paramedic Instructor/Coordinator shall be:

- 1. Associate degree from a regionally accredited institution.
- 2. Currently licensed as a Tennessee EMT-Paramedic, without a history of revocation, denial or suspension of licensure.
- 3. Experience:
 - (i) Pre-Hospital: Minimum of two years practicing in the pre-hospital environment.
 - (ii) Administration: Minimum of two years in EMS education administration or greater than 300 hours of EMS instruction.
- 4. Currently endorsed in an EMS Board approved trauma, cardiac and pediatric course (instructor preferred).
- 5. Completion of an EMS Board approved instructors' course.

- (b) Authorization Renewal shall be contingent upon:

1. Assisting with at least 100 hours of advanced EMS instruction on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic.
 3. Maintaining current CPR instructor endorsement.
 4. Attendance at annual EMT Instructor/Coordinators conference as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of a EMT-Paramedic Instructor/Coordinator may be removed or denied by the Director for the following reasons:
1. Consistent failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete, and submit as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended or expired license.
 4. Any violation of rule 1200 - 12 - 1 - .04.
 5. An EMT-Paramedic Instructor/Coordinator may appeal to the Board any decision by the Director to revoke authorization or deny authorization.
- (3) EMT-Basic Instructor/Coordinator shall mean an individual responsible for the overall coordination of the EMT-Basic Program. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community and the Division of Emergency Medical Services. The individual is also responsible for the delivery of didactic material, demonstration of the psychomotor skills, verification of skill proficiency, and the recruitment and continued development of faculty to meet the needs of the institution.
- (a) The minimal qualifications for EMT-Basic Instructor Coordinator shall be:
1. Associate degree from a regionally accredited institution.
 2. Currently licensed as a Tennessee EMT-Paramedic, without history of revocation, denial, or suspension of licensure.
 3. Experience. Pre-Hospital: Minimum of two years practicing in the pre-hospital environment or 150 hours of EMS instruction acceptable to the Board. Administrative: Minimum of one year in EMS education administration.
 4. Completion of an EMS Board approved Instructors' course.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least 75 hours instruction (EMT-Basic or EMT-IV or EMT-I or EMT-P) on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic.
 3. Maintaining current CPR instructor endorsement.

4. Attendance at annual EMT Instructor/Coordinators conference as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Course Coordinator may be removed or denied by the Director for the following reasons:
1. Consistent (two instances) failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete and submit, as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended, or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
 5. An EMT-Basic Instructor/Coordinator may appeal to the Board any decision by the Director to revoke authorization or deny authorization.
- (4) EMT Instructor Assistant shall mean an individual capable of teaching the application of practical skills to include: assisting the faculty in the delivery of instruction, evaluating student performance of skills, maintenance of equipment, and coordinating with the faculty or Instructor/Coordinator to maintain adequate levels of needed equipment.
- (a) The minimal qualifications for EMT Instructor Assistant shall be:
1. Currently licensed as a Tennessee EMT-Basic, without history of revocation, denial, or suspension of licensure.
 2. Experience: Pre-Hospital: Minimum of one year practicing in the pre-hospital environment in Tennessee.
 3. Must document at least 75 hours of EMS instruction acceptable to the Board.
- (b) Authorization Renewal shall be contingent upon:
1. Document at least 45 hours of EMT instruction on an annual basis and acceptable to the Board.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Basic.
 3. Maintaining current CPR instructor endorsement.
 4. Completion of an EMS Board approved Instructors' course.
 5. Attendance at annual EMT Instructor/Coordinators conference as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Instructor Assistant may be removed or denied by the Director for the following reasons:
1. Consistent (two instances) failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.

2. Failure to complete and submit, as required, all required documentation for all students in each class.
3. A lapsed, revoked, suspended, or expired license.
4. Any violation of Tennessee Code Annotated Title 68, Chapter 140, or any rule promulgated by the Board.
5. An EMT Instructor Assistant may appeal to the Board any decision by the Director to revoke authorization or deny authorization.

Authority: T.C.A. §§4-5-202, 68-140-504, and 68-140-505.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-40)

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 24th 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 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by deleting part (2) (a) 3. and subpart (2) (a) 5. (iii) in their entirety and substituting instead the following language, so that as amended, the new part (2) (a) 3. and the new subpart (2) (a) 5. (iii) shall read:

- (2)(a)3. Maintain properly installed smoke detector and fire extinguisher.
- (2) (a) 5. (iii) Such facilities and all of the foregoing fixtures and components shall be kept clean, in good repair, well-lighted, adequately ventilated, and free of pests.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-204, 63-18-205, 63-18-206, 63-18-208, and 63-18-211.

Rule 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by deleting parts (2) (a) 1. and (2) (a) 6. in their entirety and renumbering the remaining parts accordingly.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-204, 63-18-205, 63-18-206, 63-18-208, and 63-18-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-42)

BOARD OF EXAMINERS IN PSYCHOLOGY - 1180

There will be a hearing before the Tennessee Board of Examiners in Psychology to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-11-104. 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 18th 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 1180-1-.01, Definitions, is amended by deleting paragraph (14) in its entirety and substituting instead the following language, so that as amended, the new paragraph (14) shall read:

- (14) EPPP - The Examination for Professional Practice in Psychology.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-11-104, 63-11-207, 63-11-208, 63-11-210, and 63-11-211.

Rule 1180-2-.04, Examinations, is amended by deleting paragraph (1) and subparagraph (5) (a) in their entirety and substituting instead the following language, so that as amended, the new paragraph (1) and subparagraph (5) (a) shall read:

- (1) Written examination. The method of administration for the written examination shall be “pencil and paper” or “computer delivered.”
- (a) The written examination is the EPPP provided by the Professional Examination Service (PES). This is a test covering basic psychological science, professional application, ethics and related considerations in psychology.
1. The Board shall provide applications for examination to applicants.
 2. The applicant shall submit the application for the written examination when submitting the application for licensure to the Board’s administrative office, along with the fees required by Rule 1180-1-.03.
 3. The applicant may receive additional information concerning this test by writing to Professional Examination Service, 475 Riverside Drive, New York, New York 10115.
 4. The Professional Examination Service will send written authorization to test to the applicant with instructions to contact their chosen testing provider.
 5. The applicant will contact the testing provider to schedule the examination at the location of their choice.
 - (i) Applicants must take the examination within sixty (60) days of the date on the eligibility letter provided by PES. If the applicant does not take the examination within this time period, he/she will be removed from the eligibility listings of the testing provider and will be required to begin the examination application process again.
 - (ii) Applicants may reschedule the examination up to two (2) working days prior to the scheduled test date by calling the toll-free number provided to them in their eligibility letter without penalty. Applicants who fail to give such notice to the testing provider, and who fail to sit for the examination as scheduled, will forfeit the examination fees paid and will be required to begin the examination application process.

- (b) The passing score at the psychologist level for the “pencil and paper” version shall be a score which is equal to or greater than a score which is seventy percent (70%) correct, as reported in the EPPP statistical data provided by the Professional Examination Service for each administration of the examination or shall be a score which is that set as the passing score for Psychologists by the ASPPB for the EPPP.
- (c) The passing score at the psychologist level for the “computer delivered” version shall be a scaled score which is equal to or greater than five hundred (500), as reported in the EPPP statistical data provided by the Professional Examination Service for each administration of the examination or shall be a score which is that set as the passing score for Psychologists by the ASPPB for the EPPP.
- (5) (a) If the Board determines that the applicant has not passed the written examination, the applicant may request to take another written examination which will be scheduled no sooner than sixty (60) days after the previous written examination.
 - 1. An applicant may take the examination no more than four (4) times in a twelve (12) month period.
 - 2. Upon payment of appropriate reexamination fees, the applicant may take the written examination again.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-208, 63-11-209, 63-11-210, and 63-11-211.

Rule 1180-2-.05, Temporary License, is amended by deleting subparagraphs (2) (d) and (3) (b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2) (d) and (3) (b) shall read:

- (2)(d) An application for a temporary license will be considered only when the application is completed and the applicant is approved by the Board to be scheduled for an initial written examination.
- (3)(b) Such Psychologist licensed in another jurisdiction must meet the educational requirements for licensure as a Psychologist in Tennessee and have passed the EPPP with a score as required by Rule 1180-2-.04. If the Psychologist is seeking HSP designation he/she must have completed a qualifying internship and a year of post-internship, postdoctoral supervised experience or be listed in the National Register of Health Service Providers in Psychology.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-206, 63-11-208, 63-11-210, and 63-11-211.

Rule 1180-3-.04, Examinations, is amended by deleting paragraph (1) and subparagraph (5) (a) in their entirety and substituting instead the following language, so that as amended, the new paragraph (1) and subparagraph (5) (a) shall read:

- (1) Written examination. The method of administration for the written examination shall be “pencil and paper” or “computer delivered.”
 - (a) The written examination is the EPPP provided by the Professional Examination Service (PES). This is a test covering basic psychological science, professional application, ethics and related considerations in psychology.
 - 1. The Board shall provide applications for examination to applicants.
 - 2. The applicant shall submit the application for the written examination when submitting the application for licensure to the Board’s administrative office, along with the fees required by Rule 1180-1-.03.

3. The applicant may receive additional information concerning this test by writing to Professional Examination Service, 475 Riverside Drive, New York, New York 10115.
4. The Professional Examination Service will send written authorization to test to the applicant with instructions to contact their chosen testing provider.
5. The applicant will contact the testing provider to schedule the examination at the location of their choice.
 - (i) Applicants must take the examination within sixty (60) days of the date on the eligibility letter provided by PES. If the applicant does not take the examination within this time period, he/she will be removed from the eligibility listings of the testing provider and will be required to begin the examination application process again.
 - (ii) Applicants may reschedule the examination up to two (2) working days prior to the scheduled test date by calling the toll-free number provided to them in their eligibility letter without penalty. Applicants who fail to give such notice to the testing provider, and who fail to sit for the examination as scheduled, will forfeit the examination fees paid and will be required to begin the examination application process.
- (b) The passing score at the psychological examiner level for the “pencil and paper” version shall be a score which is equal to or greater than a score which is sixty percent (60%) correct, as reported in the EPPP statistical data provided by the Professional Examination Service for each administration of the examination or shall be a score which is one (1) standard deviation below the passing score set by the ASPPB for Psychologists for the EPPP.
- (c) The passing score at the psychological examiner level for the “computer delivered” version shall be a scaled score which is equal to or greater than four hundred (400), as reported in the EPPP statistical data provided by the Professional Examination Service for each administration of the examination or shall be a score which is that set as the passing score for Psychological Examiners by the ASPPB for the EPPP.
- (5)(a) If the Board determines that the applicant has not passed the written examination, the applicant may request to take another written examination which will be scheduled no sooner than sixty (60) days after the previous written examination.
 1. An applicant may take the examination no more than four (4) times in a twelve (12) month period.
 2. Upon payment of appropriate reexamination fees, the applicant may take the written examination again.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-207, 63-11-209, 63-11-210, and 63-11-211.

Rule 1180-3-.05, Temporary License, 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) An application for a temporary license will be considered only when the application is completed and the applicant is approved by the Board to be scheduled for an initial written examination.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-11-104, 63-11-206, 63-11-207, and 63-11-210, and 63-11-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2000. (08-09)

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-23-108. 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. (CST) on the 28th day of November, 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

Rule 1365-1-.01, Definitions, is amended by deleting paragraph (13) in its entirety and substituting instead the following language, so that as amended, the new paragraph (13) shall read:

- (13) Continuing education - Education beyond the basic licensing or certifying education requirement and which is related to the practice of social work and to the awareness of professional ethics.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-104, and 63-23-108.

Rule 1365-1-.05, Procedures for Certification and Licensure, is amended by deleting part (3) (a) 3. in its entirety and substituting instead the following language, so that as amended, the new part (3) (a) 3. shall read:

- (3) (a) 3. The individual having taken and passed the American Association of State Social Work Boards (AASSWB) clinical level approved examination in the state where the original license was issued and obtained a passing score pursuant to paragraph (8) of rule 1365-1-.08.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-103, 63-23-108, and 63-23-109.

Rule 1365-1-.07, Application Review, Approval, Denial, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Incomplete applications –
- (a) The Board's determination of the completeness of an application includes:
1. The assessing of the merit of each document submitted.

2. The ability to ask for additional documentation when necessary.
 3. The right to refuse certain documentation as not meeting requirements.
- (b) If an application is incomplete when received in the Board's administrative office, or the Board or its designee determines during its review that additional explanation or documentation is necessary, the following will occur:
1. A deficiency letter will be sent by the Board's administrative office to the applicant.
 2. The applicant shall cause requested information or documentation that is evidence satisfactory to the Board of successful completion of the requirement(s) to be sent directly to the Board's administrative office. The evidence submitted shall not be dispositive of this requirement.
 3. If the requested information or documentation is not received in the Board's administrative office on or before the thirtieth (30th) day after receipt of the deficiency letter, the application file shall be closed and the applicant notified. No further board action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, 63-23-104, 63-23-106, 63-23-108, and 63-23-109.

Rule 1365-1-.08, Examinations, is amended by deleting paragraph (8) and substituting instead the following language, so that amended, the new paragraph (8) shall read:

- (8) The board requires an examination scaled score of seventy-five (75) as the passing score, except for reciprocity applicants whose passing score shall be the passing score as determined by the AASSWB.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-103, 63-23-108, and 63-23-109.

Rule 1365-1-.09, Renewal of Certificate or License, 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) Any individual who receives notice of administrative revocation may, within sixty (60) days of the expiration date of the license or certificate, pursuant to Rule 1365-1-.11, execute and file in the Board's administrative office an affidavit of retirement which will effectively retire the license or certificate as of the date the affidavit of retirement was received by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-23-104, 63-23-105, and 63-23-108.

Rule 1365-1-.12, Continuing Education, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (3) (a), (3) (b), and (3) (c) and renumbering the remaining subparagraphs accordingly, and is further amended by deleting subparagraph (4) (a), part (4) (a) 1., and subparagraph (5) (c) in their entirety and substituting instead the following language, so that as amended, the new paragraph (1), subparagraphs (3) (a), (3) (b), (3) (c) and (4) (a), part (4) (a) 1., and subparagraph (5) (c) shall read:

- (1) Social Work Continuing Education is considered to be those preplanned/formalized activities with written learning objectives that are directed at developing and enhancing an individual's awareness of professional ethics and an

individual's social work knowledge base and service delivery skills in the applicable areas of social work planning, administration, education, research or direct service with individuals, couples, families, and groups.

- (a) These activities may include short academic courses, courses audited at accredited colleges and universities, workshops, seminars, conferences, and lectures oriented toward enhancement of professional ethics awareness and of social work practice, values, skills and knowledge for the purpose of accomplishing specific written learning objectives.
- (b) Multi-Media courses may be taken for continuing education credit.
 - 1. Multi-Media courses may include courses utilizing:
 - (i) The Internet
 - (ii) Closed circuit television
 - (iii) Satellite broadcasts
 - (iv) Correspondence courses
 - (v) Videotapes
 - (vi) CD-ROM
 - (vii) DVD
 - (viii) Teleconferencing
 - (ix) Videoconferencing
 - (x) Distance learning
 - 2. A maximum of nine (9) credit hours may be granted for multi-media courses during each calendar year.
- (3) (a) Ten (10) hours of the fifteen (15) clock hour requirement shall regard social work.
- (3) (b) Three (3) hours of the fifteen (15) clock hour requirement shall regard professional ethics.
- (3) (c) Two (2) hours of the fifteen (15) clock hour requirement may regard social work or professional ethics.
- (4) (a) Acceptable continuing education shall consist of seminars, workshops, or mini-courses oriented to the awareness of professional ethics and to the enhancement of social work practice, values, skills, and knowledge for the purpose of accomplishing specific written learning objectives.
 - 1. Cross-disciplinary offerings from medicine, law, administration, education and the behavioral sciences are acceptable, if they are clearly related to the awareness of professional ethics and to the enhancement of social work practices, values, skills, and knowledge.
- (5) (c) If audited, the individual must, within fifteen (15) working days of a request from the board, provide evidence that is satisfactory to the Board of compliance with this rule. Such evidence may include, but not be limited to, one (1) or more of the following:

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-104, and 63-23-108.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-41)

TENNESSEE REGULATORY AUTHORITY - 1220

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of rules and the amendment of rules pursuant to Tennessee Code Annotated, Section 65-2-102. 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 Hearing Room of the Tennessee Regulatory Authority Building, 460 James Robertson Parkway, Nashville, Tennessee at 1:30 p.m. on the 18th day of October, 2000.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Regulatory Authority 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, to allow time for the agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the agency's ADA Coordinator at 460 James Robertson Parkway, Nashville, TN 37243-0505, and (615) 741-2904.

For a copy of this notice of rulemaking hearing, contact: K. David Waddell, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN, and (615) 741-2904.

SUBSTANCE OF PROPOSED RULES

NEW RULES

1220-4-2-.59 REGULATIONS FOR THE PROVISIONING OF TARIFF TERM PLANS AND SPECIAL CONTRACTS

- (1) Definitions.
 - (a) Average Annual Revenues – Aggregate revenues billable under a special contract or tariff term plan divided by the term length in years.
 - (b) Revenue Price-out – Quantity for each rate or service element multiplied by the individual unit rate for that rate or service element.

- (c) Shortfall Provision – A plan or contract clause requiring the customer to pay the difference between the actual billed revenue and the revenue commitment for a discrete period of time agreed upon by the telecommunications carrier and the customer.
 - (d) Special Contract – A service arrangement that is entered into between the telecommunications carrier and certain customers prescribing and providing services, rates, terms, practices, or conditions that are not covered by or permitted in the tariffs or price lists filed by such telecommunications carrier. Special contracts include without limitation all special contract arrangements, contract service arrangements, individual case basis contracts, etc.
 - (e) Tariff Term Plan – A service arrangement, including special promotions, offered to customers under the telecommunications carrier’s general tariffs for a service term of three (3) months or longer.
 - (f) Telecommunications Carrier – For purposes of this rule, all facilities-based telecommunications carriers, excluding incumbent local exchange carriers with fewer than 100,000 total access lines in Tennessee unless such incumbent local exchange carrier voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange carrier applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.
 - (g) Termination Charges – All amounts, including but not limited to amounts resulting from the application of shortfall provisions, charged to the customer by the telecommunications carrier as a result of the cancellation of service prior to the time that the customer’s obligations under a tariff term plan or special contract would have otherwise been satisfied.
- (2) Application. All telecommunications carriers as defined herein are subject to this rule. For purposes of this rule, resellers of telecommunications services are not classified as facilities-based telecommunications carriers.
 - (3) Availability. All rates, terms, and conditions of service provided to any customer under a tariff term plan or special contract shall be offered to any other customer for service of a like kind under substantially like circumstances and conditions.
 - (4) Termination charges.
 - (a) For all tariff term plans entered into after the effective date of this rule, termination charges shall not exceed repayment of discounts received during the previous twelve (12) months of service, except as specified in subparts (c) and (d) of this paragraph.
 - (b) For any special contracts entered into after the effective date of this rule, termination charges shall not exceed the total of the repayment of discounts received during the previous twelve (12) months of service, the repayment of the prorated amount of any waived or discounted non-recurring charges, and the repayment of the prorated amount of any documented contract preparation, implementation and tracking, or similar charges, except as specified in subparts (c) and (d) of this paragraph.
 - (c) Tariff term plans and special contracts shall not permit termination charges to exceed six percent (6%) of the total tariff term plan or special contract amount. For service terms longer than four (4) years, tariff term plans and special contracts shall not permit total termination charges to exceed twenty-four percent (24%) of the average annual revenues of the tariff term plan or special contract.
 - (d) Termination charges for an individual service may exceed the levels specified in subparts (a), (b) and (c)

of this paragraph only upon demonstration to the Authority that the unrecovered portion, if any, of the customer specific costs incurred to provide such service exceeds the levels in subparts (a), (b) and (c) of this paragraph in the event of early termination. Telecommunication carriers shall request the exception provided for herein when applying for approval.

(5) Filing requirements.

(a) Each telecommunications carrier shall file with the Authority for review and approval a final, signed copy of all special contracts inclusive of attachments and addendums at least thirty (30) days before the effective date of such contracts. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof. All special contracts shall be accompanied by the following:

1. Special contracts submitted by telecommunications carriers operating pursuant to Tenn. Code Ann. § 65-5-209 shall be accompanied by:

- (i) Cost justification demonstrating adherence to the price floor as required under Tenn. Code Ann. § 65-5-208(c) and
- (ii) Revenue price-outs for existing tariff rates, if applicable, and proposed contract rates.

2. A tariff which sets forth a summary of each special contract entered into between the telecommunications carrier and the customer. At a minimum, such tariff summaries of special contracts shall include:

- (i) Customer name and address;
- (ii) A full and complete description of the services provided or available to the customer;
- (iii) All individual rates for services provided or otherwise available;
- (iv) The term of service(s);
- (v) Volume or quantity of services;
- (vi) A detailed description of all applicable termination charges. Any request made pursuant to Rule 1220-4-2-.59(4)(d) shall include detailed calculations and supporting documentation;
- (vii) Term requirements that the customer must fulfill to qualify for the special contract;
- (viii) Volume or quantity requirements that the customer must satisfy to qualify for the special contract; and
- (ix) Any and all other particular requirements or conditions that the customer must meet to qualify for the special contract.

(b) Each telecommunications carrier shall file with the Authority for review and approval all tariff term plans at least thirty (30) days before the effective date of such plans. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof. Each tariff term plan filed by telecommunications carriers with the Authority shall include tariff language that sets forth at a minimum:

1. A full and complete description of the services available to customers;

2. All individual rates for services available;
 3. A detailed description of all applicable termination charges. Any request made pursuant to Rule 1220-4-2-.59(4)(d) shall include detailed calculations and supporting documentation;
 4. Term requirements that a customer must fulfill to qualify for the tariff term plan;
 5. Volume or quantity requirements that a customer must satisfy to qualify for the tariff term plan; and
 6. Any and all other particular requirements or conditions that a customer must meet to qualify for the tariff term plan.
- (6) Amended tariffs. All telecommunications carriers as defined herein shall file amended tariffs consistent with the provisions of this rule. Such tariffs shall be filed with the Authority to become effective upon the effective date of this rule.

Authority: T.C.A. §65-2-102.

REPEALS

Subparagraph (g) of Paragraph (2) of Rule 1220-4-2-.55, Regulatory Reform is repealed.

Paragraph (3) of 1220-4-8-.07, Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers – Local Service is repealed.

AMENDMENTS

Subparagraph (e) of Paragraph (2) of Rule 1220-4-2-.55, Regulatory Reform, is amended by adding the following new part:

4. Special contracts and tariffs establishing or revising termination charges must be filed with the Authority for review and approval at least thirty (30) days prior to the effective date of such special contracts and/or tariff term arrangements. Except, upon application and for good cause shown, the Authority may waive the thirty-day time period or any portion thereof.

Authority: T.C.A. §65-2-102.

Subparagraph (c) of Paragraph (1) of Rule 1220-4-8-.07, Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers – Local Service, is amended by deleting the paragraph in its entirety and substituting instead the following new language so that, as amended, the subparagraph shall read:

Tariffs and price lists for new services shall be effective on the tariff or price filing date as defined in this Rule Chapter. Special contracts and tariffs establishing or revising termination charges must be filed with the Authority for review and approval with at least thirty (30) days notice prior to the effective date

of such special contracts and/or tariff term arrangements, unless upon application and for good cause shown the Authority may waive the thirty-day time period or any portion thereof.

Authority: T.C.A. §65-2-102.

Rule 1220-4-1-.07, Special Contracts, is amended by adding the following language:

Additional regulations regarding special contracts of certain telecommunications carriers are specified in Rule 1220-4-2-.59.

Authority: T.C.A. §65-2-102.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2000. (08-43)

**BOARD OF OCCUPATIONAL AND PHYSICAL THERAPY EXAMINERS - 1150
COMMITTEE OF PHYSICAL THERAPY**

There will be a hearing before the Tennessee Board of Occupational and Physical Therapy Examiners' Committee of Physical Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, and 63-13-304. 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 6th day of November, 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 5th Avenue North, 1st Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1150-1-.01, Definitions, is amended by deleting subparagraph (31) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (31) (b) shall read:

- (31)(b) Alleviating impairments and functional limitations by designing, implementing, and modifying therapeutic interventions that include, but are not limited to: therapeutic exercise; functional training; manual therapy; therapeutic massage; assistive and adaptive orthotic, prosthetic, protective and supportive equipment; airway clearance techniques; debridement and wound care, physical agents or modalities, mechanical and electrotherapeutic modalities including patient-related instruction and electrophysiologic studies (motor and sensory nerve conduction, and somatosensory evoked potentials)
1. Invasive kinesiological electromyography may be performed only in a university academic setting as part of a research project that has been approved by the educational institution's Internal Review Board without a referral or;
 2. Notwithstanding the provisions of part 1., diagnostic electromyography must be performed by a licensed physical therapist who has complied with the requirements of paragraph 1150-1-.04 (4) and;
 3. Notwithstanding the provisions of part 1., diagnostic and invasive electromyography may only be performed when there is a referral for such service from:
 - (i) an allopathic physician licensed under T.C.A. §§ 63-6; or
 - (ii) an osteopathic physician licensed under T.C.A. §§ 63-9; or
 - (iii) a doctor of dentistry licensed under T.C.A. §§ 63-5; or
 - (iv) a doctor of podiatry licensed under T.C.A. §§ 63-3.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-303 and 63-13-304.

Rule 1150-1-.04, Qualifications for Licensure, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Electrophysiologic studies
- (a) Applicants for licensure as a Physical Therapist who seek to conduct diagnostic electromyography (invasive needle study of multiple muscles for diagnosis of muscle and nerve disease), pursuant to rule 1150-1-.01 (31) (b), while practicing must submit to the Committee's administrative office documented evidence of possessing current ECS certification from the American Board of Physical Therapy Specialties.

- (b) Applicants for licensure as a Physical Therapist who seek to conduct surface electrophysiological studies (motor and sensory conduction, and somatosensory evoked potentials), and kinesiologic studies (invasive needle study of muscles to determine the degree and character of a muscle during certain movements) pursuant to rule 1150-1-.01 (31) (b), while practicing must submit to the Committee's administrative office documented evidence of possessing the theoretical background and technical skills for safe and competent performance of such studies.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-13-103, 63-13-108, and 63-13-304.

Rule 1150-1-.08, Examinations, is amended by deleting paragraph (9) in its entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

- (9) Remediation – Applicants who have twice failed the examination must obtain an Examination Performance Feedback report. This is a detailed diagnostic score report provided by the FSBPT for a fee. The applicant must develop a remediation plan. Such plan should be developed with the assistance of faculty at his/her accredited physical therapy educational program. The plan must outline the measures to be taken to address the weak areas. The applicant must submit the written plan for remediation to the Committee. If the Committee approves the plan, the applicant must complete the plan and submit a report to the Committee. Applicants will only be allowed to retake the examination after the process has been approved and completed.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-306, and 63-13-307.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of August, 2000. (08-49)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of (rules, amendments of rule, or repeals of rules) pursuant to Tennessee Code Annotated, Section 70-1-206. 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 Clarion Hotel, located at 407 Chestnut Street, Chattanooga, Tennessee 37402, commencing at 9:00 a.m., CDT, on the 25th day of October, 2000.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids of 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 Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Donna Woodward, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204 and telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney 3, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1660-1-2 RULES AND REGULATIONS FOR BIRDS

AMENDMENT

Paragraph (1), subparagraph (c) of Rule 1660-1-2-.02 Migratory Bird Hunting is amended by deleting it in its entirety and by substituting instead a new subparagraph (c) to read as follows:

- (c) The permittee, who is the person to whom the Agency issued the permit, must occupy his/her blind by the legal daily opening shooting time on days he/she wishes to hunt, and if the blind is unoccupied at that time by the permittee, the first person or party occupying said blind shall be entitled to the privilege of its exclusive and uninterrupted use until the end of the shooting hours of that day. Exclusive and uninterrupted use entitles the person or party to the right to exclude all others from the blind, at the person's or party's option, except for law enforcement personnel engaged in the performance of their duties. The permittee has priority use (exclusive and uninterrupted use) only if he/she is at the blind on or before the legal daily opening shooting time, regardless of whether or not the blind is occupied by another person or party, provided the permittee produces identification and his/her blind permit.

Authority: T.C.A. §§70-1-206 and 70-4-107.

CHAPTER 1660-1-5 RULES AND REGULATIONS FOR FISHING

AMENDMENT

Paragraph (5) of Rule 1660-1-5-.03 TWRA Lakes is amended by deleting it in its entirety and by substituting instead a new paragraph (5) to read as follows:

- (5) Boats may not exceed no wake-speed, except as noted in No. (9). Boats used for any activity other than fishing is prohibited, except as noted in Nos. (6) and (7). Use of Motors, other than electric trolling motors, to operate boats on V.F.W. Lake, Coy Gaither Bedford Lake, Williamsport Lakes or Marrowbone Lake is prohibited.

Authority: T.C.A. §§69-10-209, 70-1-206 and 70-4-107.

**CHAPTER 1660-1-8
RULES AND REGULATIONS OF HUNTS**

AMENDMENT

Paragraph (6), subparagraph (g) of Rule 1660-1-8-.05 Permit Applications and Drawings is amended by deleting it in its entirety and by substituting instead a new subparagraph (g) to read as follows:

No person shall buy, sell, barter, loan or transfer under any theory of law, or offer to buy, sell, barter, loan or transfer under any theory of law, a waterfowl draw blind site permit or the privilege of signing on a waterfowl draw blind site permit issued pursuant to this rule. Any person violating this rule and regulation is subject to have his/her permit and/or hunting privileges revoked in addition to other penalties as prescribed by law.

Authority: T.C.A. §§70-1-206 and 70-4-107.

**1660-1-28
HUNTING AND FISHING ON FARMLAND**

NEW RULES

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1660-1-28-.01	Sworn Affidavit
1660-1-28-.02	Form of Identification
1660-1-28-.03	Information to be Contained in the Sworn Affidavit

1660-1-28-.01 SWORN AFFIDAVIT

Each person claiming a license exemption under subsection (a) of T.C.A. '70-2-204 shall provide identification and shall submit a sworn affidavit at the time of presenting any game or wildlife to any officer of the agency or to any check station containing information to demonstrate that such person has complied with the requirements of subsection (a). Blank affidavit forms will be made available by the agency and may be obtained upon request.

1660-1-28-.02 FORM OF IDENTIFICATION.

A person claiming a license exemption to hunt or fish on farm lands pursuant to T.C.A. '70-2-204 must provide sufficient information with the required sworn affidavit to prove positive identification. Documents containing information sufficient to prove positive identification include, but are not limited to, a Tennessee driver=s license, a birth certificate, a government issued card or document such as a social security card, court order, etc.

1660-1-28-.03 INFORMATION TO BE CONTAINED IN THE SWORN AFFIDAVIT.

The person=s sworn affidavit shall contain information sufficient to demonstrate that the person has complied with the requirements of T.C.A. '70-2-204. The affidavit shall contain the following information:

- (1) Full name of the affiant.
- (2) Tennessee home telephone number. If the affiant has no home telephone number, then a work number or a friend's or relative's number will suffice.
- (3) Tennessee address of the affiant.

Name or names as appearing on the county tax assessor's records indicating the owner or owners of the farmland. "Farmland" means the property on which the affiant wishes to qualify for exemption from the licensing requirements to hunt or fish and is specifically defined in T.C.A. §70-2-204.

Location of farmland by reference to county tax assessor's map and parcel number, county and voting (civil) district. If farmland is located in more than one county, then this information should be included for all counties.

Identification of relationship to the farmland - IE. owner or tenant.

Identification of relationship to landowner, tenant - IE. spouse, child, cousin.

Affirmative statement that affiant is a bona fide resident of Tennessee unless there is a statutory exception thereto.

Affirmative statement that affiant actually lives on the farmland if the affiant is a tenant, his/her spouse or child unless there is a statutory exception thereto.

Proof of identification.

The following statements or statements substantially similar. These statements may be revised and information added or deleted as necessary:

IF AN OWNER IS SIGNING THIS AFFIDAVIT: 9 The property qualifies as farmland within the meaning contained in TCA §70-2-204(a). Either I am the sole owner of the property or I, my spouse and our kinfolks not exceeding the third degree, are the sole owners of the property.

IF A SPOUSE, OR CHILD OF OWNER OR SPOUSE IS SIGNING THIS AFFIDAVIT: 9 The property qualifies as "farmland" within the meaning contained in TCA §70-2-204(a) which includes property ownership.

IF A TENANT IS SIGNING THIS AFFIDAVIT: 9 I receive compensation such as free rent or money for acting either in the place of or at the direction of the landowner in tending to the requirements needed to care for the farmland. My primary purpose as the tenant is agricultural in nature.

IF A TENANT OR SPOUSE, OR CHILD OF A TENANT OR SPOUSE IS SIGNING THIS AFFIDAVIT: 9 The property qualifies as "farmland" within the meaning contained in TCA' 70-2-204(a) which includes property ownership.

IF PROPERTY OWNERS ARE FIRST COUSINS AND EITHER THE FIRST COUSIN OR A FIRST COUSIN'S CHILD IS SIGNING: 9 The property is owned solely by first cousins by blood and either I am one of the owners or I am a child of one of the owners. I understand I may only hunt small game or fish on the property.

- (12) Date, signature line and notary information.
- (13) Language of T.C.A. §70-2-204(a) along with a brief explanation of the language and the affidavit requirements.

- (14) Any other information which from time to time may be deemed appropriate for inclusion.

**CHAPTER 1660-2-7
RULES AND REGULATIONS GOVERNING OPERATIONS OF VESSELS**

NEW RULE

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Rule 1660 -2-7-.35 Wolf River

RULE 1660-2-7-.35 WOLF RIVER

- (15) All vessels operating in that portion of the Wolf River from the mouth (WRM 0) upstream to the Interstate 40 bridge, as delineated by signs or buoys, shall operate at a “slow, no-wake speed”.

Authority: *T.C.A. Sections 70-1-206 and 69-10-209.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August , 2000. (08-30)

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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 August 1, 2000 and ending August 31, 2000.


RILEY C. DARNELL
Secretary of State

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