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Volume 27, Number 4

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RILEY C. DARNELL
Secretary of State

Division of Publications
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Department of State, Authorization No. 305084, 435 copies, April 2001. This public document was promulgated at a cost of \$ 2.58 per copy.

PREFACE

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

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

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

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

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

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

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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 FINANCIAL INSTITUTIONS - 0180

ANNOUNCEMENT OF FORMULARATE 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 12.00 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 May, 2001 is 9.44 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 5.44 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 March 2001. 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.

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-01	March 7, 2001	1660 Wildlife Resources	Rulemaking Hearing Rules	Amendment	Chapter 1660-2-7 Rules and Regulations Governing Operations of Vessels 1660-2-7-.18 Tellico Reservoir	Sheryl Holtam, Staff Attorney TWRA P.O. Box 40747 Nashville, TN 37204 (615) 781-6606	May 21, 2001
03-04	March 9, 2001	1365 Bd Of Social Worker Certification And Licensure	Rulemaking Hearing Rules	Amendments	Chapter 1365-1 General Rules And Regulations 1365-1-.01 Definitions 1365-1-.05 Procedures for Certification and Licensure 1365-1-.07 Application Review, Approval, Denial 1365-1-.08 Examinations 1365-1-.09 Renewal of Certificate or License 1365-1-.12 Continuing Education	John Fitzgerald OGC 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	May 23, 2001
03-05	March 9, 2001	1000 Bd of Nursing	Rulemaking Hearing Rules	New Rule Repeal	Chapter 1000-1 Rules And Regulations Of Registered Nurses 1000-1-.16 Consumer Right-To-Know Requirements Chapter 1000-4 Nurse Practitioners 1000-4-.05 Consumer Right-To-Know Requirements	John Fitzgerald OGC 26th Fl, Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	May 23, 2001
03-06	March 9, 2001	0880 Bd of Medical Examiners	Rulemaking Hearing Rules	Amendments	Chapter 0880-2 General Rules and Regulations Governing the Practice of Medicine 0880-2-.14 Scope of Practice	Robert J. Kraemer, Jr OGC Dept of Health 26th Fl, Snodgrass TN Twr, 312 8th Ave N, Nashville, TN 37247-0120 (615) 741-1611	May 23, 2001
03-07	March 9, 2001	0800 Bd of Medical Examiners' Committee on Physician Assistants	Rulemaking Hearing Rules	Amendments	Chapter 0880-2 General Rules and Regulations Governing the Practice of Medicine 0880-2-.18 Supervision of Physician Assistants Chapter 0880-3 General Rules and Regulations Governing the Practice of a Physician Assistant 0880-3-.10 Range Of Services / Supervision 0880-3-.12 Continuing Education	Robert J. Kraemer, Jr, OGC Dept of Health 26th Fl, Snodgrass TN Twr 312 8th Ave N, Nashville, TN 37247-0120 (615) 741-1611	May 23, 2001

ANNOUNCEMENTS

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SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-08	March 9, 2001	0800 Bd of Medical Examiners' Committee on Physician Assistants	Rulemaking Hearing Rules	Amendments	Chapter 0880-3 <i>General Rules and Regulations Governing the Practice of a Physician Assistant</i> 0880-3-.01 Definitions 0880-3-.04 Qualifications for Licensure 0880-3-.05 Procedures for Licensure 0880-3-.21 Prescription Writing	Robert J. Kraemer, Jr, OGC Dept of Health 26th Fl, Snodgrass TN Twr 312 8th Ave N, Nashville, TN 37247-0120 (615) 741-1611	May 23, 2001
03-09	March 14, 2001	0880 Bd of Medical Examiners	Rulemaking Hearing Rules	New Rules	Chapter 0880-4 <i>General Rules and Regulations Governing the Practice of Athletic Trainers</i> 0880-4-.01 Definitions 0880-4-.02 Scope of Practice 0880-4-.03 Reserved 0880-4-.04 Reserved 0880-4-.05 Licensure Process 0880-4-.06 Fees 0880-4-.07 Application Review, Approval, and Denial 0880-4-.08 Examinations 0880-4-.09 License Renewal 0880-4-.10 Reserved 0880-4-.11 Retirement and Reactivation Of License 0880-4-.12 Continuing Education 0880-4-.13 Professional Ethics 0880-4-.14 Reserved 0880-4-.15 Disciplinary Grounds, Actions, and Civil Penalties 0880-4-.16 License 0880-4-.17 Change of Name and/or Address 0880-4-.18 Reserved 0880-4-.19 Reserved 0880-4-.20 Advertising	Robert J. Kraemer, Jr, OGC Dept of Health Twr 312 8th Ave N, Nashville, TN 37247-0120 (615) 741-1611	May 28, 2001
03-10	March 14, 2001	0460 Bd of Dentistry	Rulemaking Hearing Rules	Amendments	Chapter 0460-4 <i>Rules Governing the Practice of Dental Assistants</i> 0460-4-.02 Registration Process	Peggy D. DePriest, OGC 26th Fl., Snodgrass Twr 312 8 th Ave. N Nashville, TN 37247-0120 615-741-1611	May 28, 2001
03-13	March 19, 2001	1155 Bd of Podiatry	Rulemaking Hearing Rules	Amendments	Chapter 1155-2 <i>General Rules and Regulations Governing the Practice of Podiatry</i> 1155-2-.01 Definitions 1155-2-.02 Scope of Practice	John Fitzgerald OGC 26th Fl Snodgrass Twr Nashville, TN 37247-0120 615-741-1611	June 2, 2001

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-14	March 19, 2001	0540 Bd of Electrolysis Examiners	Rulemaking Hearing Rules	Amendments	Chapter 0540-1 General Rules Governing Electrolgy, Electrologists, and Electrolgy Instructors 0540-1-.04 Qualifications for Licensure 0540-1-.06 Fees 0540-1-.09 Renewal of License	John Fitzgerald OGC 26th Fl Snodgrass Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	June 2, 2001
03-15	March 20, 2001	1330 Bd of Respiratory Care	Rulemaking Hearing Rules	Amendments	Chapter 1330-1 General Rules Governing Respiratory Care Practitioners 1330-1-.01 Definitions 1330-1-.05 Qualifications and Procedures for Licensure 1330-1-.07 Application Review, Approval, and Denial 1330-1-.09 Renewal of License 1330-1-.11 Retirement and Reactivation of License 1330-1-.12 Continuing Education 1330-1-.19 Bd Officer, Consultants, Records and Declaratory Orders	Rachel Nelley OGC 26 th Fl, Snodgrass Twr 312 8th Ave N Nashville, TN 37247-0120 (615)741-1611	June 3, 2001
03-17	March 22, 2001	1200 Health TN Medical Laboratory Bd	Rulemaking Hearing Rules	Amendments	Chapter 1200-6-1 General Rules Governing Medical Laboratory Personnel 1200-6-1-.15 Personnel Licensure Discipline, Informal Settlements, Civil Penalties, Assessment of Costs, and Subpoenas 1200-6-1-.19 Bd Meetings, Officers, Consultant, Records, and Declaratory Orders Chapter 1200-6-3 General Rules Governing Medical Laboratories 1200-6-3-.05 Licensure Discipline, Assessment of Costs, and Subpoenas 1200-6-3-.11 Referral of Cultures to the Dept of Health	Robbie Bell OGC 26 th Fl Snodgrass Twr 312 8 th Ave N Nashville, TN 37247-0120 615-741-1611	June 5, 2001

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
03-18	March 27, 2001	0800 Labor and Workforce Development Division of Occupational Safety and Health	Proposed Rules	Amendments	0800-1-1 Occupational Safety and Health Standards for General Industry 0800-1-1-.02 Definitions 0800-1-4 Occupational Safety and Health Inspections, Citations, and Proposed Penalties 0800-1-4-.21 Fees 0800-1-5 Safety and Health Provisions for the Public Sector 0800-1-5-.08 Program Monitoring Inspections 0800-1-6 Occupational Safety and Health Standards for Construction 0800-1-6-.02 Definitions 0800-1-6-.03 Citation and Adoption of Federal Standards 0800-1-7 Occupational Safety and Health Standards for Agriculture 0800-1-7-.01 Citation and Adoption of Federal Standards 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928	Michael M. Maenza Labor and Workforce Development Occupational Safety and Health 3 rd Fl, Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN 37243-0659 (615) 741-7036	July 30, 2001
03-31	March 30, 2001	0800 Labor and Workforce Development Division of Boiler and Elevator Inspection Boiler and Pressure Vessel Section	Proposed Rules	Amendments	<i>Chapter 0800-3-3 Boiler Inspections</i> 0800-3-3-.03 Administration 0800-3-3-.04 General Requirements 0800-3-3-.09 Fees	Mark P. Reineke General Counsel Labor and Workforce Development Snodgrass Twr 26 th Fl 312 8th Ave N Nashville, TN 37243-0662 (615) 741-0851	July 30, 2001

NOTICE OF BEGINNING OF REVIEW CYCLE

Applications will be heard at the May 23, 2001 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 March 1, 2001. 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**

Laughlin Memorial Hospital
1420 Tusculum Boulevard
Greeneville (Greene Co.), TN 37745
John Wellborn – (615)—665-2022
CN0101-009

The initiation of fixed lithotripsy services at Laughlin Memorial Hospital.
\$ 605,500.00

Shannondale of Maryville Health Care Center
803 Shannondale Way
Maryville (Blount Co.), TN 37803
William R. Thomas – (865)—690-3411
CN0101-010

The establishment of a thirty (30) bed skilled nursing facility as part of a continuing care retirement community (CCRC) located at Shannondale Way in Maryville, Tennessee.
\$ 2,738,780.00

Sycamore Shoals Hospital
1501 W. Elk Avenue
Elizabethton (Carter Co.), TN 37643
Kelly Crepps – (423)—431-6052
CN0102-012

The establishment of a twelve (12) bed geriatric psychiatric unit. The approval of this application would increase the licensed acute care hospital beds from one hundred and nine (109) beds to one hundred and twenty-one beds. If approved, the 12-bed skilled nursing facility (nursing home) will be closed.
\$ 76,150.00

NAME AND ADDRESS

DESCRIPTION

Kentucky Lake Surgery Center
1002 Cornerstone Drive, Suite B
Paris (Henry Co.), TN 38242
John Wellborn – (615)—665-2022
CN0102-013

The expansion of the scope of services at Kentucky Lake Surgery Center, LLC, which is currently licensed as an ambulatory surgical treatment center (ASTC) limited to the provision of urology and pain management services. The approval of this application will remove the limiting conditions of urology and pain management and will enable it to become a multi-specialty ASTC.
\$ 180,000

Mountain Empire Cataract and Eye Surgery Center
Adjacent to 3183 W. State Street
Bristol (Sullivan Co.), TN 37620
William H. West – (615)—259-1450
CN0102-014

The establishment of an ambulatory surgical treatment center limited to ophthalmology. The center will be located adjacent to 3183 W. State Street in Bristol, Tennessee and will contain two operating rooms.
\$ 1,209,780.00

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PROPOSED RULES

DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800 DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Presented herein are proposed rules and amendments of the Department of Labor and Workforce Development, Division of Occupational Safety and Health submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in the Legal Services Office of the Department of Labor and Workforce Development, 26th Floor, William R. Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243-0293, and in the Administrative Procedures Division of the Department of State, 8th Floor, William R. Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243-0310, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the proposed rules, contact: Michael M. Maenza, Manager of Standards and Procedures, Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health, 3rd Floor, Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN 37243-0659, (615) 741-7036.

The text of the proposed rules and amendments is as follows:

AMENDMENTS

CHAPTER 0800-1-1 OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR GENERAL INDUSTRY

Rule 0800-1-1-.02 Definitions is deleted in its entirety and replaced with a new rule which shall read as follows:

0800-1-1-.02 DEFINITIONS. As used in this chapter, unless the context clearly otherwise requires:

- (1) "Act" means Chapter 561 of the Public Acts of 1972, known as the Occupational Safety and Health Act of 1972 pursuant to Section 1 thereof, as amended (T.C.A. Title 50, Chapter 3, §§50-3-101 through 50-3-919.
- (2) "Administrator" means the chief administrative officer of the Division of Occupational Safety and Health of the Department of Labor and Workforce Development, and includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the Administrator of the Division of Occupational Safety and Health under the Act.
- (3) "Commissioner of Labor and Workforce Development" or "Commissioner" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. For the purposes of this chapter, it includes

any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development under the Act.

- (4) "Employee" means any person performing services for another under a contract of hire, including minors, whether lawfully or unlawfully employed, persons in executive positions, and shall include state, county, metropolitan and municipal government employees.
- (5) "Employer" means a person engaged in a business who has one or more employees and includes state, county, metropolitan and municipal governments.
- (6) "Federal Standard" means a standard promulgated under Section 6 of the Occupational Safety and Health Act of 1970, Public Law 91-596 (Title 29, United States Code, Section 655).
- (7) "OSHA" means the Occupational Safety and Health Act of 1970, as amended, or the Occupational Safety and Health Administration, U.S. Department of Labor, depending upon the context in which the acronym is used. As used in federal standards adopted by this chapter, it shall mean the same as federal standard as defined in paragraph (6) of this rule or one of the foregoing, depending upon context. It shall also, for the purposes of this chapter, be considered synonymous with the acronym "TOSHA" as defined in paragraph (10) of this rule.
- (8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.
- (9) "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.
- (10) "TOSHA" means the Division of Occupational Safety and Health, Tennessee Department of Labor and Workforce Development, which is the agency responsible for the administration and enforcement of the Act and rules and regulations promulgated by the Commissioner of Labor and Workforce Development pursuant thereto.

Authority: T.C.A. §§ 4-3-1411, 50-3-103 and 50-3-201.

AMENDMENTS

Paragraph (2) of Rule 0800-1-1-.06 Adoption and Citation of Federal Standards is amended by changing the date in the second line from "September 30, 2000" to "January 31, 2001", so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 31, 2001 except as provided in Rule 0800-1-1-.07 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

**CHAPTER 0800-1-4
OCCUPATIONAL SAFETY AND HEALTH
INSPECTIONS, CITATIONS, AND PROPOSED PENALTIES**

The text of the proposed amendments is as follows:

Subparagraph (a) of paragraph (1) of rule 0800-1-4-.21 Fees for Information is amended by deleting the statement “\$18.00 per copy” after the hyphen in part 1 and replacing it with the words “Charges will be based on the procurement cost plus shipping and handling”, by deleting the statement “\$14.00 per copy” after the hyphen in part 2 and replacing it with the words “Charges will be based on the procurement cost plus shipping and handling”, and by deleting the statement “\$2.50 per copy” after the hyphen in part 3 and replacing it with the words “Charges will be based on the procurement cost plus shipping and handling” so that as amended that part shall read:

- (a) Occupational Safety and Health Standards
1. OSHA Standards for General Industry (29 C.F.R. 1910) as adopted by the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health - Charges will be based on the procurement cost plus shipping and handling.
 2. OSHA Standards for the Construction Industry (29 C.F.R. 1926) as adopted by the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health - Charges will be based on the procurement cost plus shipping and handling.
 3. OSHA Standards for Agriculture (29 C.F.R. 1928) as adopted by the Tennessee Department of Labor and Workforce Development, Division of Occupational Safety and Health - Charges will be based on the procurement cost plus shipping and handling.
 4. Copies of specific standards, e.g., 29 C.F.R. 1910.106 or 29 C.F.R. 1926.501 - \$0.25 per page.

Authority: T.C.A. §§ 4-3-1411, 4-5-218 (b) and 50-3-904(4).

**CHAPTER 0800-1-5
SAFETY AND HEALTH PROVISIONS
FOR THE PUBLIC SECTOR**

The text of the proposed rules and amendments is as follows:

Paragraph (2) Right of Entry of Rule 0800-1-5-.08 Program Monitoring Inspections is deleted in its entirety and replaced with a new paragraph which shall read as follows:

- (2) Right of Entry T.C.A. §50-3-301 states, “In order to carry out the purposes of this chapter, the Commissioner of Labor and Workforce Development, upon presenting appropriate credentials to the owner, operator or agent in charge, is authorized to: (1) Enter without delay and at any reasonable time any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; and (2) Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment and materials therein, and question privately any such employer, owner, operator, agent or employee.” In accordance with Rule 0800-1-5-.05(6) of this chapter, the Commissioner is authorized to review records required by

the Act.

Authority: *T.C.A. §§ 4-3-1411, 50-3-906 and 50-3-911.*

Paragraph (2) of Rule 0800-1-5-.15 Employee Complaints is amended by replacing the title “Chief of Public Sector Programs” with the title “Manager of Public Sector Operations” and is also amended by adding the punctuation and phrase “, either by the state agency or local government or by PSSHOs of the Public Sector Operations Branch,” between the words “inspection to be made” and “as soon as practicable” so that as amended the paragraph shall read:

- (2) Upon receipt of an employee complaint or inspection request, if the Manager of Public Sector Operations determines that the complaint or request meets the requirements set forth in paragraph (1) of this rule, and that there are reasonable grounds to believe that an alleged violation exists, he shall cause an inspection to be made, either by the state agency or local government or by PSSHOs of the Public Sector Operations Branch, as soon as practicable, to determine if an alleged violation exists. Inspections under this rule shall not be limited to matters referred to in the complaint or request for an inspection.

Authority: *T.C.A. §§ 4-3-1411 and 50-3-106.*

CHAPTER 0800-1-6 OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR CONSTRUCTION

The text of the proposed rules and amendments is as follows:

Rule 0800-1-6-.02 Definitions is deleted in its entirety and replaced with a new rule which shall read as follows:

0800-1-6-.02 DEFINITIONS.

- (1) As used in this chapter, unless the context clearly otherwise requires:
 - (a) “Construction work” means work for construction, alteration, and/or repair including painting and decorating, rection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of existing electric transmission and distribution lines and equipment.

Authority: *T.C.A. §§4-3-1411 and 50-3-201.*

Paragraph (2) of Rule 0800-1-6-.03 Citation and Adoption of Federal Standards is amended by changing the date in the second line from “September 30, 2000” to “January 31, 2001”, so that as amended that paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 31, 2001 except as provided in Rule 0800-1-6-.04 of this chapter.

Authority: *T.C.A. §§4-3-1411 and 50-3-201.*

CHAPTER 0800-1-7
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS FOR AGRICULTURE

The text of the proposed amendments is as follows:

Paragraph (2) of Rule 0800-1-7-.01 Citation and Adoption of Federal Standards is amended by changing the date in the second line from "September 30, 2000" to "January 31, 2001", so that as amended that paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 31, 2001 except as provided in Rule 0800-1-7-.02 of this chapter.

Authority: *T.C.A. §§4-3-1411 and 50-3-201.*

Rule 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date in the first line from "December 31, 1998" to "January 31, 2001", so that as amended that paragraph shall read:

As of January 31, 2001, there are no exceptions.

Authority: *T.C.A §§4-3-1411 and 50-3-201.*

The proposed rules set out herein were properly filed in the Department of State on the 27th day of March, 2001, 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 30th day of July, 2001. (03-18)

**DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT - 0800
DIVISION OF BOILER AND ELEVATOR INSPECTION
BOILER AND PRESSURE VESSEL SECTION
BOARD OF BOILER RULES**

Presented herein are proposed amendments of the Department of Labor and Workforce Development, Division of Boiler and Elevator Inspection, Boiler and Pressure Vessel Section, Board of Boiler Rules submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Labor and Workforce Development 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 rules and amendments are published. Such petition, to be effective, must be filed in the Legal Services office of the Department of Labor and Workforce Development, Tennessee Tower - 6th Floor, 312 Eighth Avenue North, Nashville, Tennessee 37243-0293, and in the Department of State, Seventeenth Floor, James K. Polk State Office Building, Sixth and Deaderick, 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.

For a copy of this proposed rule, contact Mr. Noel Chivers, Director, Boiler and Elevator Division, Tennessee Department of Labor and Workforce Development, Andrew Johnson Tower - 3rd Floor, 710 James Robertson Parkway, Nashville, Tennessee 37243-0663, telephone: (615) 741-2123.

The text of the proposed amendments is as follows:

CHAPTER 0800-3-3

BOILER INSPECTIONS

AMENDMENTS

Subparagraph (a) of paragraph (21) of Rule 0800-3-3-.03 Administration is amended by adding the sentence, the inspector responsible for the in-service inspection shall sign the necessary National Board NB-R form or forms, after the last sentence in the rule, so that as amended such subparagraph shall read:

(21) Repairs and Alterations

- (a) Repairs and alterations shall not be made without the permission of an Inspector employed by the Authorized Inspection Agency responsible for the in-service inspection of the subject boiler or pressure vessel. Such repairs and alterations shall be done in accordance with the National Board Inspection Code. The inspector responsible for the in-service inspection shall sign the necessary National Board "NB-R" form or forms.

Authority: T.C.A. §§ 68-122-101 through 68-122-103, and 4-5-202.

Paragraph (22) of Rule 0800-3-3-.04 General Requirements is amended by inserting the words or greater between the words surface and shall in the second line of said paragraph, and by deleting the words is familiar with in the fourth line of said paragraph, and inserting the words has been qualified by the owner in its operation, so that as amended such paragraph shall read:

- (22) Attendants for Power Boilers. A power boiler having a rating of either 5 h.p. or 50 sq. ft. of heat-absorbing surface

or greater shall not be operated for periods of longer than twenty (20) minutes without being checked by an attendant who has been qualified by the owner in its operation, regardless of whether the boiler is equipped with automatic feedwater regulator, fuel or damper regulator, high and low water alarm, or other form of automatic control.

Authority: T.C.A. §§ 68-122-101, 68-122-102, and 4-5-202.

Subparagraph (a) of paragraph (2) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$75.00 and inserting the fee amount of \$250.00, so that as amended such subparagraph shall read:

(a) For one-half (1/2) day of four hours \$250.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (b) of paragraph (2) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$150.00, and inserting the dollar amount \$500.00, so that as amended such paragraph shall read:

(b) For one (1) full day of eight (8) hours..... \$500.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (a) of paragraph (3) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$10.00 and inserting the fee amount of \$30.00, so that as amended such subparagraph shall read:

(a) Boilers of 5 H.P. or less, or 50 sq. ft. or less of heating surface..... \$30.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (c) of paragraph (3) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$10.00, and inserting the dollar amount \$20.00, so that as amended such paragraph shall read:

(c) External Inspections..... \$20.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (d) of paragraph (3) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$10.00, and inserting the dollar amount \$15.00, so that as amended such paragraph shall read:

(d) Inspection of heating boilers..... \$15.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (a) of paragraph (4) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$5.00, and inserting the dollar amount \$15.00, so that as amended such paragraph shall read:

(a) Internal and/or external inspection of each unfired pressure vessel subject to inspection having a cross-sectional area of fifty (50) square feet or less is..... \$15.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (a) of paragraph (8) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$15.00, and inserting the dollar amount \$25.00, so that as amended such paragraph shall read:

(a) For power boilers..... \$25.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

Subparagraph (b) of paragraph (8) of Rule 0800-3-3-.09 Fees is amended by deleting the dollar amount \$30.00, and inserting the dollar amount \$40.00, so that as amended such paragraph shall read:

(b) For low pressure heating boilers and unfired pressure vessels..... \$40.00

Authority: T.C.A. §§ 4-5-202(a)(3), 68-122-101 through 68-122-104, 68-122-106, 68-122-111, 68-122-113, and 68-122-116.

The proposed rules set out herein were properly filed in the Department of State on the 30th day of March, 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 27th day of July, 2001. (03-31)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0620 - Department of Finance and Administration, Bureau of TennCare, Public necessity rules dealing with the Revised Consent Decree, rule 1200-13-12-.11 Appeal of Adverse Actions Affecting a TennCare Program Enrollee, 12 T.A.R. (December 2000) - Filed November 2, 2000; effective through April 16, 2001. (11-09)

- 1200 - Department of Health, Tennessee Cancer Registry, Public Necessity Rules implementing the program operated by the Cancer Reporting System administered by the Tennessee Cancer Registry of the Tennessee Department of Health, chapter Chapter 1200-7-2 Cancer Reporting System, 3 T.A.R. (March 2001) - Filed February 22, 2001; effective through August 6, 2001. (02-10)

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RULEMAKING HEARINGS

DEPARTMENT OF CHILDREN'S SERVICES - 0250 CHILD PROTECTIVE SERVICES

There will be a hearing before the Tennessee Department of Children Services to consider promulgation of rules pursuant to T.C.A. § 37-5-112. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in the Magnolia Room on the ground floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, TN 37243 at 1:30 p.m. on the 21st day of June, 2001.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Children's Services to discuss any auxiliary aids of services needed to facilitate participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Children's Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Children's Services ADA Coordinator, Maggie Winbush, Personnel Analyst 3, at 7th floor of the Cordell Hull Building, 8th Floor, 436 6th Avenue North, Nashville, TN 37243; (615) 532-5615.

For a copy of this notice of rulemaking hearing, contact: Sherry Abernathy, Director of Child Protective Services, 436 6th Avenue North, 8th Floor, Nashville, TN 37243-1290; (615) 741-8278.

0250-7-9-.01 through 0250-7-9-.10 is amended by deleting 0250-7-9-.01 through 0250-7-9-.10 in its entirety and adding the following so that as amended the rule shall read:

SUBSTANCE OF PROPOSED AMENDED RULES

RULES OF THE TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES CHILD PROTECTIVE SERVICES

CHAPTER 0250-7-9 DUE PROCESS PROCEDURES FOR RELEASE OF CHILD ABUSE/NEGLECT RECORDS AMENDED RULES

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0250-7-9-.01	Scope of Rules	0250-7-9-.05	Stay of Administrative Proceedings
0250-7-9-.02	Classification of Reports of Child Abuse/Neglect as "Indicated"	0250-7-9-.06	Conduct of the Hearing
0250-7-9-.03	When Rights Under this Chapter Attach; "Triggering Events"	0250-7-9-.07	Evidence; Standard of Proof
0250-7-9-.04	Right to Notice and Opportunity for Hearing	0250-7-9-.08	Alleged Perpetrators with Current Access to Children, Emergency Notification
		0250-7-9-.09	Prohibited Releases

0250-7-9-.01 SCOPE OF RULES.

- (1) The rules in this chapter apply to individuals whom the Department of Children’s Services identifies or proposes to identify as a perpetrator of physical abuse, sexual abuse, severe physical abuse, or severe neglect, as defined in Parts 1, 4, or 6 of Chapter I of Title 37 of the Tennessee Code Annotated. These rules shall further apply only when such identification is released or proposed to be released to:
 - (a) the individual’s employer whether the individual is a paid employee or under contract;
 - (b) the licensing authority of the employer or the individual, or;
 - (c) any other organization with which the individual is associated as a paid employee or contractor, or volunteer; whether such individual is providing instruction, care, supervision, or treatment in a:
 1. child care agency as defined in T.C.A. §37-5-501 et seq.;
 2. public or private school for children;
 3. residential or institutional child caring organization;
 4. through self-employment;
 5. or any other organization.
- (2) Such release shall be for the purposes of protecting children from further abuse and for the purposes directly connected with the administration of T.C.A. §§ 37-1-101 et seq.; 37-1-401 et seq.; 37-1-601 et seq.;

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a); 71-1-105

0250-7-9-.02 CLASSIFICATION OF REPORTS OF CHILD ABUSE/NEGLECT AS “INDICATED”

- (1) A report of child abuse or neglect by the alleged perpetrator may be classified as “indicated” if there is substantial and material evidence, in light of the entire record, which indicates the individual committed physical abuse, sexual abuse, severe physical abuse, or severe neglect, as defined in T.C.A. §§ 37-1-102 or 37-1-602. Proof of one or more of the following factors, linking the abusive act(s) to the alleged perpetrator, shall constitute substantial and material evidence, except for the factors in paragraphs (f), (g) (h), and (i), which shall only be corroborative of other evidence:
 - (a) medical and/or psychological information from a licensed physician, medical center, or other treatment professional, that substantiates that physical abuse, severe physical abuse, severe neglect or sexual abuse occurred;
 - (b) an admission by the perpetrator;
 - (c) the statement of a credible witness or witnesses to the abusive or neglectful act;
 - (d) the child victim’s statement that the abuse occurred.
 1. The following elements should be considered in assessing the credibility of child’s statement, factoring in the child’s developmental level:

- (i) the child's ability to describe the incident or incidents, and/or;
 - (ii) the child's ability to give circumstances and a description of the environment that surrounded the incident or incidents, and/or;
 - (iii) the child's ability to provide smaller details that can be corroborated.
- (e) physiological indicators or signs of abuse or neglect, including, but not limited to, cuts, bruises, burns, broken bones or medically diagnosed physical conditions;
- (f) physical evidence that could impact the classification decision includes:
1. weapons;
 2. instruments utilized in the abuse;
 3. photos/videotapes/audiotapes.
- (g) physical evidence in cases of sexual abuse would also include:
1. letters;
 2. correspondence;
 3. electronic mail including child pornography;
 4. sexual "souvenirs";
 5. bed, clothing, sheets etc. which contain bodily fluids, pubic hairs and other physical evidence.
- (h) behavioral indicators. The existence of behavioral patterns that may be indicative of child abuse/severe neglect and corroborates other evidence of abuse/neglect should be examined.
- (i) circumstantial evidence linking the alleged perpetrator to the abusive or neglectful act(s) (e.g., child was in care of the alleged perpetrator at the time the abuse occurred and no other reasonable explanation of the cause of the abuse exists in the record).

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.03 WHEN RIGHTS UNDER THIS CHAPTER ATTACH; "TRIGGERING EVENTS."

- (1) The rights to review and hearing set forth herein are triggered by the classification of an investigated report of physical abuse, sexual abuse, severe physical abuse, or severe neglect as an "indicated" case together with the release, under emergency procedures under rule 0250-7-3-.08, or the intended release as otherwise permitted under these rules in non-emergency situations, of the name of any individual providing instruction, care, supervision, or treatment of children, identifying the individual as an "indicated" perpetrator of physical abuse, severe physical abuse, severe neglect or child sexual abuse, to:
 - (a) the individual's employer whether the individual is a paid employee or under contract;

- (b) the licensing authority of the employer or the individual or;
 - (c) other organizations with which the individual is associated as a paid employee, contractor, or volunteer; whether the individual is providing such instruction, care, supervision, or treatment in a:
 1. child care agency as defined in T.C.A. §§37-5-501 et seq.
 2. public or private school for children;
 3. residential or institutional child caring organization;
 4. through self-employment, or;
 5. any other organization.
- (2) The rights to review and hearing are not triggered by release of information concerning the alleged perpetrator from Department records to:
- (a) any state(s) or federal law enforcement agency(ies) investigating a report of known or suspected child abuse or neglect or any crimes involving children;
 - (b) any state(s) District Attorney or United States Attorney(s) or their authorized assistants, of the judicial districts or agencies involved in investigating or prosecuting crimes against children;
 - (c) any state(s) or federal grand jury by subpoena or presentation of evidence by the District Attorney or United States Attorney to such grand jury;
 - (d) treatment professionals treating the child, his or her family, or the perpetrator;
 - (e) in-house requests by employees of the Department of Children's Services for purposes consistent with enforcement of the child abuse and neglect or child welfare licensing laws of the State of Tennessee including disclosure to other individuals for purposes directly connected with the administration of Title 37, Chapter 1, Parts 4 and 6 or Title 71, Chapter 3, Part 5, of the Tennessee Code Annotated, other than disclosure to the employers, licensing authority other than the Department of Children's Services, or other organizations, where indicated perpetrators of child abuse are employed, licensed, or associated, providing instruction, care, supervision, or treatment for children;
 - (f) any state(s) or federal social service or other agencies investigating cases of child abuse or neglect or providing treatment or care for alleged or known victims of child abuse or neglect;
 - (g) any court official, probation counselor, parole officer, designated employee of any Department of Correction or other similarly situated individual charged with the responsibility of preparing information to be presented in any administrative or judicial proceeding concerning any individual charged with or convicted of any offense involving child abuse, child sexual abuse, or neglect;
 - (h) to the court, administrative board or hearing, the officials or employees thereof in the performance of their duties, the parties, or their legal representatives in any judicial or administrative proceeding or before any board or hearing officer;
 - (i) for the purpose of protecting a child or children from physical or severe child abuse, neglect, or child sexual abuse, except in such situation when such court, administrative hearing, board, or hearing officer,

other than the Department of Children's Services, is adjudicating a case affecting the perpetrator's ability to remain or become employed or licensed, in which situation such information shall be released only by order of the court or hearing officer;

- (j) pursuant to T.C.A. §37-5-512 information regarding DCS child abuse/neglect investigations may be released to the Department of Education and the Department of Human Services for the purposes of relating appropriate licensing and approval action.

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.04 RIGHT TO NOTICE AND OPPORTUNITY FOR HEARING.

- (1) Except as otherwise provided in this chapter any individual who is identified or is proposed to be identified as set forth in 0250-7-9-.01 as a perpetrator of child abuse in an "indicated" report investigated by the Department and who has received a formal file review which has resulted in the classification of "indicated" report being upheld by the Department, has the right to request and receive an administrative hearing before a hearing officer of the Administrative Procedures Division of the Department. A request for a hearing prior to the receipt of a formal file review pursuant to 0250-7-9-.09 will not be deemed a proper request for a hearing.
- (2) If the review results in a decision that the standards in 0250-7-9-.02 are not met, and the report is therefore, not properly classified as indicated the Department will not release information from its records identifying the individual as a perpetrator of child abuse/neglect to the individual's employer or licensing authority, or other organizations in which the individual provides instruction, care, supervision, or treatment for children. Nothing in these rules shall be construed to require the expunction of internal case records maintained by the Department.
- (3) The Department will send written notice containing the information specified in paragraph [4] to the individual at his/her last known address within 10 days of the date of the formal file review under 0250-7-9-.09 results in a decision that the report is properly classified as "indicated". Except as otherwise provided in rule 0250-7-9-.09 during this period, and until expiration of the 10-day period specified in paragraph (3)(b) of this rule or until expiration of the time specified in 0250-7-9-.07(2), the Department will not disclose the fact that the individual has been classified by the Department as a perpetrator of child abuse in an "indicated" report, but shall only release the fact that a hearing concerning the individual pursuant to the child abuse laws of this State is pending.
- (4) The notice referred to in paragraph (3) shall contain the following information:
 - (a) that the individual is identified as the perpetrator of child abuse in an "indicated" report investigated by the Department of Children's Services and that the formal file review has classified the report as "indicated";
 - (b) that the individual has a right to a hearing, and that he/she must contact the local office of the Department of Children's Services, in writing, within 10 days of the date of the notice, in order to request a hearing.
 - (c) that if the individual fails to request a hearing within 10 days of the date of the notice, he/she will be identified to his/her employer or licensing authority, or other organization in which the individual provides instruction, care, supervision or treatment for children, as a perpetrator of physical abuse, severe abuse, severe neglect or sexual abuse.
- (5) If the individual requests a hearing within the required time frame, the Department will schedule a hearing and give the individual adequate notice of the hearing, as provided in chapter 0250-5-4.

- (a) The hearing will be held, and an initial order entered therein, within 90 days of the date of the notice required in paragraph (2), or in rule 0250-7-9-08(3), if applicable, unless:
 - 1. the time limit is extended or waived by agreement of the parties, or for good cause shown, or;
 - 2. the proceedings are stayed, pursuant to 0250-7-9-.05.
- (6) If the individual fails to request a hearing within the required time frame, the individual will be deemed to have forever waived his/her right to a hearing in regard to that report. The report will then be available for dissemination to his/her employer, or licensing authority, or other organization in which the individual provides instruction, care, supervision or treatment for children, for the purpose of protecting children from abuse. Provided, however, that the individual may be granted a hearing notwithstanding his/her failure to make a request within the time required by paragraph [4][b], or by rule 0250-7-9-.08 if applicable if said individual shows good cause for his/her failure to do so. For purposes of this rule, "good cause" is limited to failure to receive the notice referred to in paragraph (2), severe illness, or some other disabling condition, which substantially prevented the individual from requesting a hearing within the required time limit.

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.05 STAY OF ADMINISTRATIVE PROCEEDINGS.

- (1) If the individual has been arrested or indicted on criminal charges or if a civil or other administrative proceedings alleging child abuse/neglect by the individual, who is the subject of proceedings under these rules, which charge or proceedings are derived from the same allegations resulting in an "indicated" classification under these rules, have been initiated in any court or other administrative proceedings, the following provisions apply:
 - (a) If the arrest, indictment, and/or initiation of other judicial or other administrative proceedings occurs any time prior to the entry of the final order, all administrative proceedings under these rules will be immediately stayed pending final resolution (including appeals) of the judicial administrative proceedings. Provided, however, that the notice specified in, 025-7-9.04[3], or 0250-7-9-.08(3), as appropriate, will, notwithstanding the provisions of this subparagraph, be sent to the individual and the individual will be required to comply with the provisions of 0250-7-9-.04[4][b], or 0250-7-9-.08(3)(a) 2, as appropriate, in order to preserve any future right to a review or hearing. Except as otherwise provided in 0250-7-9-.08(3)(b), during the stay, the Department will release no information about the individual as to the report in question, except that judicial or administrative proceedings involving allegations of child abuse by the individual are pending before a specified court or administrative proceeding;
 - (b) if a criminal prosecution results in a conviction or guilty plea for any offense listed in T.C.A. §37-1-602(a)(2), or for any act which would constitute physical abuse, sexual abuse, severe physical abuse, or severe neglect as defined in T.C.A. § 37-1-102(10) and (19), or if the individual is found guilty or pleads guilty to any lesser offense derived from the offenses or acts alleged under T.C.A. §37-1-602(a)(2) or T.C.A. §37-1-102(10) and (19), or if any court or administrative proceeding results in a judicial or administrative adjudication that the individual has committed, or has knowingly allowed to be committed, any act which would constitute physical abuse, sexual abuse, severe physical abuse, or severe neglect, as defined in T.C.A. §37-1-102(10) and (19) or any act which constitutes child sexual abuse as defined in T.C.A. §37-1-602(2), then such conviction and/or adjudication will be conclusive evidence that the individual is the perpetrator classified in the "indicated report and the individual will have no right to a hearing provided for in 0250-7-9-.04 in regard to that particular report and information on the perpetrator will be released as otherwise permitted under these rules;

- (c) if the criminal and/or civil or administrative proceeding does not result in a conviction and/or finding as specified in (b) above, including pretrial diversion, this fact will be admissible in the administrative hearing, but will in no way be conclusive on the issue of whether the report is properly classified as “indicated”.
- (2) If administrative proceedings have been stayed pursuant to this rule, they will be reinstated at the point at which they were stayed if the alleged perpetrator requests such in writing to the local office of the Department of Children’s Services within 30 days of entry of a final order by a court or other administrative body favorably disposing of the issue of child abuse involving the alleged perpetrator or of any disposition other than guilty by a court in a criminal proceeding. If the alleged perpetrator fails to make such a written request within the required time period he/she will be deemed to have forever waived his/her rights to a hearing in regard to that report. The indicated report and information regarding the perpetrator will be released as otherwise permitted under these rules.
 - (3) Unless the individual has waived his/her rights to a review or hearing by failing to request same under paragraph (1)(a), if administrative proceedings have been stayed, the Department will send the individual written notice advising him/her of the following:
 - (a) that administrative proceedings have been stayed pending the final outcome of judicial or other administrative proceedings concerning allegations of child abuse involving the individual;
 - (b) that the administrative proceedings under these rules will be reinstated at the point they were stayed only if the individual requests such in writing to the local office of the Department which issued the original notice within 30 days of the entry of a final order by the court or administrative tribunal or verdict by a criminal court (unless the order or verdict is as specified in paragraph (1)(b) above);
 - (c) if the individual fails to make such a written request within the required time period, he/she will be deemed to have forever waived his/her rights to a hearing in regard to the report.

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.06 CONDUCT OF THE HEARING

- (1) The hearing provided for in 0250-7-9-.04 will be conducted in accordance with the provisions of the “Uniform Administrative Procedures Act” and the rules of the Administrative Procedures Division of the Department of Children’s Services.
- (2) Except as otherwise provided in rule 0250-7-9-.09 the Department will not release the fact that the individual has been named as a perpetrator of child abuse in an “indicated” report until the individual has exhausted all of his/her appeal rights under this chapter, up to, but not including judicial review unless a stay is ordered pursuant to T.C.A. §4-5-322(e), or until said rights are waived. In the interim, the Department shall release the fact that an investigation or hearing concerning the individual pursuant to the child abuse laws of the State is pending.
- (3) If the final order of the Department, or of a court of competent jurisdiction in the event of judicial review, is that the report is not properly classified as “indicated”, according to the standards in 0250-7-9-.02 the Department will not identify the individual to the individual’s employer or licensing authority or other organization in which the individual provides instruction, care, supervision or treatment for children, as a perpetrator of child abuse. The Department, if it has indicated to the entity that its employee, or licensee or other person providing instruction, care, supervision or treatment for children who was under investigation was the subject of a “indicated” report, will notify the entity of the fact that the report was not properly classified as “indicated”. Nothing in this rule shall be construed to require the expunction of any information from internal case records maintained by the Department.

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.07 EVIDENCE; STANDARD OF PROOF.

- (1) Admissibility of evidence in hearings pursuant to 0250-7-9-.04 is governed by the provisions of T.C.A. §4-5-313. Provided, however, that “evidence admissible in a court” shall, for purposes of hearings pursuant to this chapter, refer also to evidence admissible in any juvenile court of this state, pursuant to the Tennessee rules of Juvenile Procedure. Provided further that the evidentiary provisions of Title 24, Chapter 7, Part I of the Tennessee Code Annotated and T.C.A. §§37-1-401 et seq. and 37-1-601 et seq., including the use of videotape testimony, shall be applicable to such hearings.
- (2) In hearings pursuant to 0250-7-9-.04 the sole issue for the hearing officer to determine is whether the standards for classifying the report as “indicated”, as provided in 0250-7-9-.02 have been met in that particular case. In making this determination, the hearing officer shall consider whatever relevant and admissible proof the individual offers that the report is not properly classified as indicated and shall further consider any competent and admissible proof concerning the dynamics of child abuse relevant to whether the classification is proper.

Authority: T.C.A. §§4-5-226(b)(2); 4-5-313; 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

0250-7-9-.08 ALLEGED PERPETRATORS WITH CURRENT ACCESS TO CHILDREN; EMERGENCY NOTIFICATION.

- (1) The provisions of this rule apply to individuals identified as a perpetrator of physical abuse, sexual abuse, severe physical abuse, and severe neglect in an “indicated” report, who provide instruction, care, supervision, or treatment for children and who have access to children by virtue of his/her paid or contracted employment or volunteer work in a child care agency, as defined in T.C.A. §§37-5-501 et seq.; or his/her employment by contract or otherwise in public or private schools, residential or institutional child caring organizations; or in any other situation where the perpetrator is self-employed or is employed in an organization in any manner by others, or is a volunteer in any other organization providing instruction, care, supervision, or treatment for children.
- (2) As soon as reasonably possible after the local office has investigated and made a recommendation to indicate a report under the circumstances specified in paragraph (1), the Department will conduct a formal file review provided in 0250-7-9-.04
 - (a) In addition to reaching a determination as to whether the report is properly classified as “indicated”, the Commissioner or his/her designee shall make a determination whether the report and investigation reveal an immediate threat to the health, safety, or welfare of a child or children exists.
 - (b) If such threat is found to exist, the Department will follow the procedures specified in paragraphs (3), (4), and (5) of this rule. If no such immediate threat is found to exist, the Department will follow the procedure specified in rule 0250-7-9-.04.
- (3) As soon as reasonably possible after a determination has been made that an emergency situation exists, in that there is an immediate threat to the health, safety or welfare to a child or children as specified in paragraph (2)(a) above, the Department will, notwithstanding the provisions of 0250-7-9-.05 send written notice to both the alleged perpetrator and the child care agency, or other employer, person, licensing authority other than the Department of Children’s Services, or other organization with authority or supervision over the alleged perpetrator in the circumstances of paragraph (1) above, whether subject to licensure by the Department or not.

- (a) The notice to the alleged perpetrator will contain the following information:
1. that the individual is identified as the perpetrator of child abuse in an “indicated” report of child abuse and that the Commissioner or designee has upheld the classification as “indicated”;
 2. that the individual has a right to a hearing, and that he/she must contact the local Department of Children’s Services office, in writing, within 10 days of the date and the notice, in order to request a hearing;
 3. that if the individual fails to request a hearing within 10 days of the date of the notice, he/she will remain identified by the Department of Children’s Services to his/her employer, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment of children as a perpetrator of child abuse;
 4. a statement that the employer, agency, licensing authority, or other supervising organization over the individual or organization with which the individual is associated in providing instruction, care, supervision, or treatment has been notified of the situation, and a copy of the notice to the employer, agency, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment will be attached.
- (b) The notice to the employer, agency, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment shall contain the following:
1. that the named individual has been reported as perpetrator of child abuse, and that the Department has determined that the report is “indicated”, pursuant to State rule 0250-7-9-.02;
 2. that the employer, agency, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment for children must immediately take action to assure that the individual has no access to or contact with any child in their care until further notice by the Department;
 3. that if the employer, agency, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment for children fails to take such action, the Department will take action to suspend, revoke, or deny the agency’s license if it is licensed by the Department, or the Department will take such other action as may be necessary to protect the children, pursuant to T.C.A. §71-3-530;
 4. that the individual has been notified of his/her right to a hearing on the allegations, and that employer, agency, licensing authority, or other organization in which the individual provides instruction, care, supervision, or treatment of children will be notified of the final decision in regard to the allegations.
- (4) If the individual requests a hearing within the required time period, the provisions of 0250-7-9-.04[5] apply. If the individual fails to request a hearing within the required time period, the provisions of 0250-7-9-.04[6] apply.
- (5) Following final resolution of the case, whether by administrative hearing, court order, or waiver by the alleged perpetrator, the Department will notify the employer, agency, licensing authority, boards responsible for licensure or other organizations in which the individual provides instruction, care, supervision, or treatment of children with which the individual is associated in writing of the decision.

- (a) If the classification of the report as “indicated” has been upheld, the employer, agency, licensing authority or other organization in which the individual provides instruction, care, supervision, or treatment of children will be required to continue to assure non-access as provided in paragraph (3)(b) 2, and the notice shall so state;
- (b) if the classification of the report as “indicated” is determined to have been incorrect, the employer, agency, licensing authority, or other organization in which the individual instruction, care, supervision, or treatment of children will not be required to assure non-access as provided in paragraph (3)(b) 2, and the notice shall so state;
- (c) except as provided in paragraph (3), the provisions of rule 0250-7-9-.06 are also applicable to proceedings under this rule.

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a); 71-1-105 and 37-5-501.

0250-7-9-.09 PROHIBITED RELEASES.

- (1) The Department of Children’s Services shall not release information from its records to identify to employers, agencies, licensing authorities other than the Department of Children’s Services, or other organizations, for purposes of pre-employment screening or licensing, the individual as a perpetrator of child abuse/neglect.
- (2) The Department of Children’s Services shall not release information from its records to identify, for purposes of responding to a request from an employer, agency, licensing authority, or other supervising organization of an individual or other organization in which the individual provides instruction, care, supervision of, or treatment of children, for purposes of routine or random screening of current employees or associates of these organizations as to their status as perpetrators of child abuse. This shall not be construed to prevent the release of information identifying an individual as a perpetrator of child abuse, as otherwise permitted under these rules following a classification by the Department of Children’s Services of a report of child abuse as “indicated” and following exhaustion or waiver of review, hearing remedies, or under emergency release procedures set forth in rule 0250-7-9-.08

Authority: T.C.A. §§4-5-226(b)(2); 37-1-409; 37-1-612; 37-1-616; 37-5-101; 37-5-105; 37-5-106; 37-5-112(a) and 71-1-105.

REPEAL

Rule 0250-7-9.01 – 0250-7-9.10 is repealed (Child Protective Services).

Authority: T.C.A. §§ 4-5-202, 4-5-203, 37-3-112, Public Chapter 1079 §§13 and 149.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of March, 2001. (03-21)

BOARD OF FUNERAL DIRECTORS AND EMBALMERS - 0660

There will be a hearing before the Board of Funeral Directors and Embalmers to consider the promulgation of rules and amendments to rules respecting fees payable to the Board pursuant to Tenn. Code Ann. § 62-5-203. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204, and will take place in Conference Room 160 on the First Floor of the Davy Crockett Tower, located at 500 James Robertson Parkway, Nashville, Tennessee at ten o'clock (10:00) A.M., CST, on the 16th day of May, 2001.

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

For a copy of the entire text of this notice, contact Cecil H. Ross, Staff Attorney, 25th Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243 (telephone number 615-741-3072).

SUBSTANCE OF PROPOSED RULES

CHAPTER 0660-3 FEES

NEW RULES

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0660-3-.07 Reinspectionsv	0660-3-.09 Change of Location
0660-3-.08 Change of Ownership	0660-3-.10 Database Update

0660-3-.07 REINSPECTIONS.

The fee for any reinspection of a licensed establishment, or of an establishment applying for a license, whether performed at the request of the establishment or on the initiative of the Board, shall be two hundred dollars (\$200.00).

Authority: T.C.A. §§62-5-203, 62-5-207, and 62-5-304.

0660-3-.08 CHANGE OF OWNERSHIP.

The fee for a change of ownership of a licensed funeral establishment shall be five hundred seventy-five dollars (\$575.00), payable upon submission of the report required by Rule 0660-4-.03(1) of the Rules of the Board of Funeral Directors and Embalmers.

Authority: T.C.A. §§62-5-203 and 62-5-207.

0660-3-.09 CHANGE OF LOCATION.

The fee for changing the location or place of business of any licensed establishment shall be five hundred seventy-five dollars (\$575.00), payable upon submission of the written notification required by Rule 0660-4-.03(1) of the Rules of the Board of Funeral Directors and Embalmers.

Authority: T.C.A. §§62-5-203 and 62-5-207.

0660-3-.10 DATABASE UPDATE.

The fee for changing any entry in the Board's computer database with regard to information required to be reported or submitted to the Board shall be sixty dollars (\$60.00) per request.

Authority: T.C.A. §62-5-203.

AMENDMENTS

Rule 0660-3-.01 Student and Apprentice Registration is amended by deleting the existing rule in its entirety and replacing it with the following language, so that the rule as amended shall read:

0660-3-.01 STUDENT AND APPRENTICE REGISTRATION.

- (1) Funeral Director student or apprentice. The fee for registration as a funeral director student or apprentice shall be seventy dollars (\$70.00).
- (2) Embalmer student or apprentice. The fee for registration as an embalmer apprentice shall be seventy dollars (\$70.00).

Authority: T.C.A. §§62-5-203, 62-5-305(b) and 62-5-307.

Rule 0660-3-.02 Applicants for Licenses is amended by deleting the existing rule in its entirety and replacing it with the following language, so that the rule as amended shall read:

0660-3-.02 APPLICANTS FOR LICENSES.

- (1) Funeral Director. An application for a funeral director's license shall be accompanied by a non-refundable application fee of two hundred dollars (\$200.00).
- (2) Embalmer. An application for an embalmer's license shall be accompanied by a non-refundable application fee of two hundred dollars (\$200.00).
- (3) Funeral Establishment. An application for a funeral establishment license shall be accompanied by a non-refundable application/initial license fee of five hundred seventy-five dollars (\$575.00)

Authority: T.C.A. §§62-5-203, 62-5-306(c) and 62-5-311.

0660-3-.03 Licenses is amended by deleting the existing rule in its entirety and replacing it with the following language, so that the rule as amended shall read:

0660-3-.03 LICENSES.

- (1) Funeral Director. The fee for a funeral director's license shall be two hundred seventy-five dollars (\$275.00).
- (2) Embalmer. The fee for an embalmer's license shall be two hundred seventy-five dollars (\$275.00).

Authority: T.C.A. §§62-5-203, 62-5-304(a), 62-5-306(c) and 62-5-308(c).

Rule 0660-3-.04 Renewals is amended by deleting the existing rule in its entirety and replacing it with the following language, so that the rule as amended shall read:

0660-3-.04 RENEWALS.

- (1) Funeral Director. The fee for biennial renewal of a funeral director's license shall be two hundred seventy-five dollars (\$275.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (2) Embalmer. The fee for biennial renewal of an embalmer's license shall be two hundred seventy-five dollars (\$275.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).
- (3) Funeral Establishment. The fee for biennial renewal of a funeral establishment license shall be five hundred seventy-five dollars (\$575.00). The penalty fee for late renewal shall be two hundred dollars (\$200.00).

Authority: T.C.A. §§62-5-203, 62-5-315 and 62-5-316(b).

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-24)

**DEPARTMENT OF HEALTH - 1200
POLICY PLANNING AND ASSESSMENT
TENNESSEE CANCER REGISTRY**

There will be a hearing before the Department of Health to consider the promulgation of rules pursuant to Tennessee Code Annotated § 68-1-1001. 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 Sequoyah Room of the Cordell Hull Building located on the ground floor at 425 Fifth Avenue, North, Nashville, TN, at 1:00 PM central time on the 18th day of May, 2001.

Any individuals with disabilities who wish to participate in these proceedings should contact the Department of Health 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 Department of Health to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Health's ADA Coordinator in the Division of Human Resources, Andrew Johnson Tower, 710 James Robertson Parkway, 11th Floor, Nashville, TN 37247-0103 or call 615-741-6350.

For a copy of this rule, contact Toni Bounds, Ph.D., Department of Health, Policy Planning and Assessment, Tennessee Cancer Registry, Cordell Hull Building, Fourth Floor, 425 Fifth Avenue, North, Nashville, Tennessee 37247 (telephone 615-532-7903), tbounds@mail.state.tn.us

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1200-7-2
CANCER REPORTING SYSTEM**

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1200-7-2-.01 Purpose	1200-7-2-.05 Cancer Case Reporting
1200-7-2-.02 Authority	1200-7-2-.06 Confidentiality
1200-7-2-.03 Definitions	1200-7-2-.07 Release of Information
1200-7-2-.04 Participation in the Program	1200-7-2-.08 Request Procedure for Identifiable Data

1200-7-2-.01 PURPOSE

- (1) The purpose of these regulations is to provide for the implementation of the Tennessee Cancer Reporting System Act of 1983 and its amendments requiring all hospitals, laboratories, facilities, and health care practitioners, as defined in the Act, to report certain cancer information to the Department of Health, as well as to provide for the confidentiality of certain information, and for the data to be made available to the public.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.02 AUTHORITY

- (1) The regulations are issued under the authority granted the Commissioner of the Tennessee Department of Health under the Cancer Reporting System Act of 1983 and its amendments, hereinafter referred to as the Act.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.03 DEFINITIONS

- (1) “Cancer” means and includes, but is not limited to:
 - (a) a large group of diseases characterized by uncontrolled growth and spread of abnormal cells;
 - (b) any condition of tumors having the properties of anaplasia, invasion, and metastasis;
 - (c) a cellular tumor, the natural course of which is fatal;
 - (d) malignant neoplasm; and
 - (e) in-situ cancer.
- (2) “Commissioner” means the Commissioner of the Department of Health.
- (3) “Data” shall mean the original information contained on the report required by the regulations.
- (4) “Department” shall mean the Tennessee Department of Health, or “department,” as used in the Act.
- (5) “Facility” means a health care facility in which diagnosis or treatment services are provided to patients with cancer, including, but not limited to, an ambulatory surgical treatment center, a freestanding cancer treatment center, a radiation therapy center, a chemotherapy treatment center, a nursing home, an oncology or dermatology clinic, a laboratory, or any other facility which provides screening, detection, diagnostic or therapeutic services to patients with cancer.
- (6) “Health care practitioner” means a physician, surgeon, or other health care professional licensed under T.C.A. Title 63 who is engaged in diagnosing and/or treating patients who have cancer.
- (7) “Hospital” means an institution as defined by T.C.A. 68-11-201.
- (8) “Identifying information” means any information that could lead to the identification of a patient who has been diagnosed or treated for cancer.
- (9) “Laboratory” means a facility where tests are performed identifying anatomical and cytological changes, and where specimens are interpreted and pathological diagnoses are made.
- (10) “Medical records” shall include, but not be limited to, pathology reports, cytology reports, radiology reports, and disease index for both inpatients and outpatients.
- (11) “Person” means any member of the “medical, scientific, and academic research community.”
- (12) “Policies and Procedures Manual” means the document(s) maintained in the offices of the Tennessee Cancer Registry giving specific written instructions for the implementation of policies and procedures utilized by the Registry and which may be updated from time to time.

- (13) “Tennessee Cancer Registry” or “Registry” or “TCR” shall mean the program in the Tennessee Department of Health that administers a population-based statewide cancer registry.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.04 PARTICIPATION IN THE PROGRAM

- (1) All hospitals, laboratories, facilities and health care practitioners shall report information concerning Tennessee patients who are diagnosed and/or treated for cancer.
- (2) Health care practitioners are not required to report information on cancer patients who are directly referred to or have been previously admitted to a hospital or a facility for cancer diagnosis or treatment.
- (3) All hospitals, laboratories, facilities and health care practitioners shall designate one (1) staff member to be responsible for reporting the cancer information and shall notify the department of the name, title, work address, work telephone number, and e-mail address (if available) of the designated staff member.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.05 CANCER CASE REPORTING.

- (1) Reportable Cancer Cases
 - (a) Any newly diagnosed in-situ or invasive cancer as defined by the TCR Policies and Procedures Manual is considered a reportable diagnosis. If a patient subsequently develops a new primary cancer, it shall be reported separately.
- (2) Format for Reporting
 - (a) The format for reporting, the required codes, and the standards for completeness and quality are defined by the department in the TCR Policies and Procedures Manual.
- (3) Data Items to be Reported
 - (a) The standardized report of cancer shall include as a minimum those data items required by the Tennessee Cancer Registry, a list of which is maintained in the TCR Policies and Procedures Manual. The report of cancer shall include the listed demographic, diagnostic, and treatment information as defined by the department.
- (4) Deadline for Reporting
 - (a) Reporting shall occur no later than six months after the date of diagnosis of cancer in a patient. Reports shall be submitted to the department according to a time frame communicated by the department to each hospital, facility, laboratory, and health care practitioner.
- (5) Failure to Report

- (a) A hospital, laboratory, facility, or health care practitioner that fails to report information or allow access to records, as required by T.C.A. 68-1-1003, shall be informed in writing by the department that compliance is mandatory.
 - (b) If a hospital, laboratory, facility, or health care practitioner fails to provide the required information in the format specified by the department or if the data are of unacceptable quality, the Commissioner or the Commissioner's authorized representative may enter the facility to casefind and abstract the information. In these cases, the facility shall reimburse the department for the actual cost of casefinding, abstracting, coding and editing, a maximum of which is fifty dollars (\$50) per case. A hospital, laboratory, facility or health care practitioner from whom reimbursement is sought may appeal the assessment of expenses under the Tennessee Uniform Administrative Procedures Act. The appeal shall be to the Commissioner in writing and within thirty (30) days of receipt of the assessment.
- (6) Quality Assurance
- (a) Staff members from the Tennessee Cancer Registry or their agents shall perform periodic quality assurance studies at all reporting facilities. These studies shall include:
 - 1. casefinding to ensure that all cancer cases have been accessioned; and
 - 2. reabstracting the records of cancer patients to ensure that all data have been transcribed and coded correctly.
 - (b) Reporting facilities shall assist TCR staff by providing the necessary medical records and the office space for conducting quality assurance activities.
 - (c) In order to improve the quality of the data, the TCR or their agents shall offer training for reporting facility personnel.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.06 CONFIDENTIALITY

- (1) T.C.A. 68-1-1006 provides for the confidentiality of data obtained from the reports of cancer patients.
- (2) TCR Responsibilities
 - (a) The commissioner shall take strict measures to ensure that all patient identifying information is treated as confidential and privileged. All employees or consultants, including auditors of the TCR, shall sign a Tennessee Cancer Registry Employee Confidentiality Pledge and these signed pledges shall be kept on file. An employee or consultant who discloses confidential information willfully or through negligence is subject to penalty, including, but not limited to, the penalty in T.C.A. 68-1-1009.
- (3) Protection of Report Sources
 - (a) Hospitals, laboratories, facilities, or health care practitioners who disclose cancer information to the Tennessee Cancer Registry or its employees in conformity with the Cancer Reporting System Act of 1983 and its amendments shall not be held liable for the release of such information to the department.

- (4) Protection of Patient Identifying Data Obtained by Special Studies and Other Research Studies
- (a) All identifying data such as records of interviews, questionnaires, reports, statements, notes, and memoranda that are procured or prepared by employees or agents of the Tennessee Cancer Registry shall be used solely for statistical, scientific and medical research purposes and shall be held strictly confidential by the TCR. This applies also to data procured by any other person, agency, or organization, including public or private colleges and universities acting jointly with the TCR in connection with special cancer studies and health research investigations.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.07 RELEASE OF INFORMATION

- (1) Release of non-identifying data
- (a) To federal agencies:
1. The TCR is authorized to collaborate with the National Program of Cancer Registries (NPCR), the Centers for Disease Control and Prevention (CDC), and the National Cancer Institute (NCI) to provide cancer incidence statistics and participate in cancer studies.
- (b) To the Tennessee Department of Health
1. The Tennessee Cancer Registry shall work closely with the Tennessee Department of Health in investigating cancer-related issues and in evaluating programs. Because the TCR data are an integral part of the Tennessee Department of Health cancer prevention and control programs, the use of Registry data by public health officials shall be considered an in-house activity. Data required by the Tennessee Department of Health for responding to concerns expressed about threats to the public health shall receive priority in determining the order of processing requests.
- (c) To the general public:
1. Public reports published by the Tennessee Cancer Registry shall include aggregate, not patient identifying data or facility identifying information. Information that would potentially identify a cancer patient shall not be published. Non-identifying data may be made available to the general public upon request to the department. The availability of any data shall depend upon the department's financial or other ability to comply with such requests. The Registry shall respond to public requests as quickly as possible, subject to staffing constraints.
- (d) To Others:
1. The TCR is authorized to collaborate with the North American Association of Central Cancer Registries (NAACCR) to provide cancer incidence statistics and participate in cancer studies.
- (2) Release of identifying data
- (a) Identifying data collected from any hospital, laboratory, facility, or health care practitioner may be released to qualified persons for the purposes of cancer prevention, control, and research, provided that each request for identifying data follows the established procedure outlined in the TCR Policies and

Procedures Manual and receives prior approval by the department. Identifying information that is collected solely by the Tennessee Cancer Registry for its own special studies shall not be released.

- (3) Annual Report
 - (a) A statistical report shall be prepared at the completion of each year's data collection cycle and will be distributed as requested.
- (4) Interstate Exchange of Data
 - (a) Because cancer patients may be diagnosed or receive treatment in another state, the Commissioner or the Commissioner's authorized representative is authorized to sign agreements with other states to acquire cancer data concerning Tennessee residents and, in return, to provide those states with data relating to their residents. Each signatory state shall agree in writing to keep all patient information confidential and privileged as defined in the contract for data exchange, a copy of which is included in the TCR Policies and Procedures Manual.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

1200-7-2-.08 REQUEST PROCEDURE FOR PATIENT IDENTIFYING DATA.

- (1) Requests for identifying data shall be reviewed and approved by the department according to the policies of the Tennessee Department of Health and the Tennessee Cancer Registry.
- (2) The Tennessee Cancer Registry shall review requests for data and shall recommend to the Commissioner whether to approve or deny any data request. The Commissioner shall approve or deny any data request after considering the reason for such request and the planned use of the data.
- (3) A detailed description of the procedures for requesting identifying data can be obtained from the Tennessee Cancer Registry.

Authority: T.C.A. §§4-5-209 and 68-1-1001 et seq.

REPEALS

Rule 1200-7-2 is repealed in its entirety.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of March, 2001. (03-19)

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 new rules and amendments of rules pursuant to T.C.A. §§ 68-140-504, 68-140-509, and 68-140-521. 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 9:30 a.m., Central Daylight Time, on the 21st day of May, 2001.

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, telephone 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 37247-0701, telephone 615-741-2584.

SUBSTANCE OF PROPOSED RULES

NEW RULES

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1200-12-1-.20 Training for Emergency Medical Services for
Children

1200-12-1-.20 TRAINING FOR EMERGENCY MEDICAL SERVICES FOR CHILDREN. Training programs for emergency medical care for children shall be provided as follows

- (1) Within twenty-four (24) months of the effective date of this rule, each EMT-Paramedic shall demonstrate capability of recognizing and managing overt shock and respiratory failures and stabilizing pediatric trauma patients, including recognition and stabilization of problems that may lead to shock and respiratory failure in children. Successful completion of courses, such as the Pediatric Education for Prehospital Professionals, EMS-C/Pediatric Advanced Life Support (American Heart Association courses), or Emergency Nursing Pediatric Courses, can be utilized to demonstrate this clinical capability.
- (2) Each service shall ensure that licensed EMS personnel employed by the service receive a minimum of one and one half (1.5) hours of pediatric emergency medical care refresher training each year. Attendance in courses or subjects from the Pediatric Education for Prehospital Professionals, EMS-C/Pediatric Advanced Life Support, Neonatal Resuscitation Program (American Heart Association courses), Emergency Nursing Pediatric Courses, or other programs approved by the board may be credited to fulfill this requirement. Such in-service shall follow and shall be in addition to the initial completion of a pediatric emergency care training program by EMT- Paramedics, or by other EMS personnel appropriate to their level of licensure.
- (3) All accredited EMT and EMT-Paramedic training programs shall offer and provide pediatric emergency care training, including courses in pediatric advanced life support and trauma care. Such programs shall be offered subject to demand and enrollment, but at least annually.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-140-504, 68-140-509, and 68-140-521.

This notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of March, 2001. (03-22)

**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 new rules and repeal of rules pursuant to T.C.A. §§ 68-140-504, 68-140-505, 68-140-509, and 68-140-521. 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 Daylight Time, on the 21st day of May, 2001.

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, telephone 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 37247-0701, telephone 615-741-2584.

SUBSTANCE OF PROPOSED RULES

NEW RULES

1200-12-1 Emergency Medical Services is amended by adding the following language as a new rule.

1200-12-1-.21 DESTINATION DETERMINATION – Sick or injured persons who are in need of transport to a health care facility by a ground or air ambulance requiring licensure by the State of Tennessee should be transported according to these destination rules.

- (1) Trauma patients - The goal of the pre-hospital component of the trauma system and destination guidelines is to minimize injury through safe and rapid transport of the injured patient. The patient should be taken directly to the center most appropriately equipped and staffed to handle the patient's injury as defined by the region's trauma system and as designated pursuant to Rule 1200-8-12. These destinations should be clearly identified and understood by regional prehospital personnel and should be determined by triage protocols or by direct medical direction. Ambulances shall bypass those facilities not identified by the region's trauma system as appropriate destinations, even if they are closest to the incident.

- (2) Beginning no later than six (6) months after the designation of a trauma center in any region, persons in that region, who are in need of transport who have been involved in a traumatic incident and who are suffering from trauma or a traumatic injury as a result thereof, as determined by triage at the scene, shall be transported according to the following rules.
- (a) Adult [greater than or equal to fifteen (15) years of age] and Pediatric [less than fifteen (15) years of age] Trauma Patients shall be triaged and transported according to the flow chart labeled "Field Triage Decision Scheme" in "Resources For Optimal Care of the Injured Patient: 1999," or any successor publication. The Pediatric Trauma Score shall be used as published in "Basic Trauma Life Support for Paramedics and Other Advanced EMS Providers," Fourth Edition, 2000. Copies of the charts are available from the Division.
1. Step One and Step Two patients shall go to a Level 1 Trauma Center or Comprehensive Regional Pediatric Center (CRPC), either initially or after stabilization at another facility. EMS field personnel may initiate air ambulance response.
 2. Step One or Step Two pediatric patients shall be transported to a Comprehensive Regional Pediatric Center (CRPC) or to an adult Level 1 Trauma Center if no CRPC is available. Local Destination Guidelines should assure that in regions with two CRPC's or one CRPC and another facility with Level 1 Adult Trauma capability, that seriously injured children are cared for in the facility most appropriate for their injuries.
 3. For pediatric patients, a Pediatric Trauma Score of less than or equal to 8 (<8) will be considered as a cutoff level for Step One patients.
 4. Local or Regional Trauma Medical Control may establish criteria to allow for non-transport of clearly uninjured patients.
 5. Trauma Medical Control will determine patient destinations within thirty (30) minutes by ground transport of a Level 1 Trauma Center or CRPC.
- (b) Exceptions apply in the following circumstances:
1. For ground ambulances, when transport to a Level I Trauma Center will exceed thirty (30) minutes, Trauma Medical Control will determine the patient's destination. If Trauma Medical Control is not available, the patient shall be transported to the closest appropriate medical facility.
 2. For air ambulances, Step One patients shall be transported to the most rapidly accessible Level I Trauma Center, taking safety and operational issues into consideration. Step Two, Three, and Four patients shall be transported to a Level I Trauma Center as determined by the air ambulance's Medical Control. The Flight Crew will make determination of patient status on arrival of the air ambulance.
 3. Air ambulances will not transport chemical or radiation contaminated patients prior to decontamination.
 4. If the Trauma Center chosen as the patient's destination is overloaded and cannot treat the patient, Trauma Medical Control shall determine the patient's destination. If Trauma or Medical Control is not available, the patient's destination shall be determined pursuant to regional or local destination guidelines.
 5. A transport may be diverted from the original destination:

- (i) if a patient's condition becomes unmanageable or exceeds the capabilities of the transporting unit; or
 - (ii) if Trauma Medical Control deems that transport to a Level I Trauma Center is not necessary.
 - (c) Utilization of any of the exceptions listed above shall prompt review of that transport by the quality improvement process and the medical director of the individual EMS providers.
 - (d) Trauma Medical Control can be accomplished by a Trauma or Emergency Physician on duty at a designated Trauma Center or by protocols established in conjunction with a Regional Level I Trauma Center.
- (3) Pediatric patients represent a unique patient population with special care requirements in illness and injury. Tennessee has a comprehensive designation system for emergency care facilities in regards to pediatric patients, wherein there are variable levels of available care, as defined in Rule 1200-8-30-.01. There are circumstances in pediatric emergency care where it would be appropriate to bypass lower levels of care. These circumstances are outlined as follows.
- (a) Pediatric Medical Emergency
 - 1. Pediatric patients with the following diagnoses shall be seen at the highest level facility available in the region.
 - (i) on-going seizures
 - (ii) a poorly responsive or floppy child
 - (iii) cardiac arrest
 - (iv) significant toxic ingestion history
 - (v) progressive respiratory distress (cyanosis)
 - (vi) massive gastrointestinal (GI) bleed
 - (vii) life threatening dysrhythmias
 - (viii) compromised airway
 - (ix) signs or symptoms of shock
 - (x) severe respiratory distress
 - (xi) respiratory arrest
 - 2. Pediatric medical emergency transport may be diverted from the original destination if the patient's condition becomes unmanageable or exceeds the capability of the transporting unit, in which case the patient should be treated at the closest facility.
 - 3. Pediatric medical emergency air ambulance transports must go to a Comprehensive Regional Pediatric Center.

- (b) Pediatric trauma patients shall be taken to trauma facilities as provided in paragraph (2).
- (4) Any patient who does not qualify for transport to a Trauma Center or a Comprehensive Regional Pediatric Center shall transported to the most appropriate facility in accordance with regional or local destination guidelines.
- (5) Adults or children with specialized healthcare needs beyond those already addressed should have their destination determined by Medical or Trauma Control, by regional or local guidelines, or by previous arrangement on the part of patient (or his/her family or physician).
- (6) A transport may be refused by the patient or the patient's representative or an alternate destination requested. Non-transport of the patient or transport of the patient to an alternate destination shall not violate this rule and shall not constitute refusal of care

Authority: T.C.A. §§ 4-5-202, 68-140-504, 68-140-505, 68-140-509, and 68-140-521.

Rule 1200-12-1-.11 Ambulance Service Operations and Procedures paragraph (7) is repealed.

Authority: T.C.A. §§ 4-5-202, 68-140-504, 68-140-505, 68-140-509, and 68-140-521.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of March, 2001. (03-23)

DEPARTMENT OF HEALTH - 1200 HEALTH SERVICES ADMINISTRATION

There will be a hearing before the Department of Health to consider the promulgation of amendments of rules, pursuant to Tennessee Code Annotated Chapter 49-6-5001. 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 Communicable and Environmental Diseases Services Section Conference Room of the Cordell Hull Building located at 425 5th Avenue, North, Nashville, Tennessee 37247 at 10:00 a.m., Central Time May 22, 2001.

Any individuals with disabilities who wish to participate in these proceedings or to review these proceedings should contact the Department of Health 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 Department of Health to determine how it may reasonably provide such aid or service. Initial contact may be made with ADA Coordinator at 11th Floor, Andrew Johnson Building, 710 James Robertson Parkway, Nashville, Tennessee 37243, telephone (615) 741-6350.

For a copy of this notice of rulemaking hearing, contact Jerry Narramore, Immunization Program, Tennessee Department of Health, at (615) 532-8517.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1200-14-1****AMENDMENTS**

Chapter 1200-14-1-29 Immunization Against Certain Diseases Prior to School or Child Care Attendance in Tennessee is amended by adding paragraphs seven, eight, and nine. These paragraphs shall read:

- (7) Effective July 1, 2001, for all children born on or after July 1, 2001 proof of adequate immunization with a Conjugated Pneumococcal vaccine will be required for attendance in licensed childcare facilities.
- (8) Effective July 1, 2002, proof of immunization against varicella, or a parental or physician history of disease, will be required prior to entry into kindergarten.
- (9) Effective July 1, 2002, proof of adequate immunization against Hepatitis B will be required prior to entry into the seventh grade.

The notice of rulemaking set out herein was properly filed in the Department of State on the 27th day of March, 2001. (03-20)

**DEPARTMENT OF HUMAN SERVICES - 1240
ADULT AND FAMILY SERVICES DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to TCA §§ 4-5-201 et seq. and 71-3-501 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 Conference Room A, 7th Floor, State Office Building, 531 Henley Street, Knoxville, Tennessee 37902 at 6:30 PM Eastern Daylight Time on Tuesday, May 22, 2001; and in the Second Floor Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 6:30 PM Central Daylight Time on Thursday, May 24, 2001; and in the Second Floor Auditorium, State Office Building, 170 North Main Street, Memphis, Tennessee 38103 at 6:30 PM Central Daylight Time on Thursday, May 31, 2001.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Shirley Gaudin, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5560 (TDD)- (615) 532-8569.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

**SUBSTANCE OF PROPOSED RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-1
STANDARDS FOR GROUP DAY CARE HOMES**

AMENDMENTS

Paragraph (8) of Rule 1240-4-1-.02, Ownership and Administration, is amended by deleting Paragraph (8) in its entirety and by substituting instead the following new language so that, as amended, Paragraph (8) shall read as follows:

- (8) Liability and Medical Payment Insurance Coverage.
- (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.
 - (b) Automobile liability coverage shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) combined single limit of liability. The requirement of this subparagraph only applies to child care programs that transport children.
 - (c) General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) general aggregate coverage, or Three Hundred Thousand Dollars (\$300,000) per occurrence.
 - (d) Medical payment coverage shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under subparagraph (b), and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under subparagraph (c).
 - (e) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3).
 - (f) Documentation that the necessary insurance is in effect, or that the governmental entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department's licensing staff.

Authority: T.C.A. §§4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(B).

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-30)

**DEPARTMENT OF HUMAN SERVICES - 1240
ADULT AND FAMILY SERVICES DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to TCA §§ 4-5-201 et seq. and 71-3-501 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 Conference Room A, 7th Floor, State Office Building, 531 Henley, Knoxville, Tennessee 37902 at 6:30 PM Eastern Daylight Time on Tuesday, May 22, 2001; and in the Second Floor Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 6:30 PM Central Daylight Time on Thursday, May 24, 2001; and in Second Floor Auditorium, State Office Building, 170 North Main Street, Memphis, Tennessee 38103 at 6:30 PM Central Daylight Time on Thursday, May 31, 2001.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Shirley Gaudin, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5560 (TDD)-(615) 532-8569.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

**SUBSTANCE OF PROPOSED RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADULT AND FAMILY SERVICES DIVISION

CHAPTER 1240-4-3
LICENSURE RULES FOR CHILD CARE CENTERS SERVING PRE-SCHOOL CHILDREN

AMENDMENTS**

Subparagraph (b) of Paragraph (3) of Rule 1240-4-3-.06, Organization and Administration, is amended by deleting Subparagraph (b) in its entirety and by substituting instead the following new language, so that, as amended, Subparagraph (b) shall read as follows:

- (b) Liability and Medical Payment Insurance Coverage.
1. General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.
 2. Automobile liability coverage shall be maintained in a minimum amount of Five Hundred Thousand Dollars (\$500,000) combined single limit of liability. The requirement of this part only applies to child care programs that transport children.
 3. General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Five Hundred Thousand Dollars (\$500,000) per occurrence and Five Hundred Thousand Dollars (\$500,000) general aggregate coverage.

4. Medical payment coverage shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under part 2, and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under part 3.
5. The requirements of this subparagraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3).
6. Documentation that the necessary insurance is in effect, or that the governmental entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department's licensing staff.

Authority: *T.C.A. §§4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(B).*

Subpart (ii) of Part 4 of subparagraph (f) of Paragraph (3) of Rule 1240-4-3-.07, Staff Qualifications, is amended by deleting subpart (ii) in its entirety and by substituting instead the following language so that, as amended, subpart (ii) shall read as follows:

- (ii) New caregivers shall complete two (2) clock hours of pre-service orientation training offered or approved by the Department and shall complete an additional six (6) hours of the required training within the first six (6) months of employment. For purposes of this rule, "pre-service" orientation shall mean that such orientation occurs within the first thirty (30) days of employment with the agency. Pending completion of the orientation training, the caregiver's status is conditional. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first six (6) months of employment shall require that the employee be removed from caregiver duties for children until completion of the training.

Authority: *T.C.A. §§4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(A)(ii).*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-27)

**DEPARTMENT OF HUMAN SERVICES - 1240
ADULT AND FAMILY SERVICES DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to TCA §§ 4-5-201 et seq. and 71-3-501 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 Conference Room A, 7th Floor, State Office Building, 531 Henley Street, Knoxville, Tennessee 37902 at 6:30 PM Eastern Daylight Time on Tuesday, May 22, 2001; and in the 2nd Floor Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 6:30 PM Central Daylight Time on Thursday, May 24, 2001; and in the Second Floor Auditorium, State Office Building, 170 North Main Street, Memphis, Tennessee 38103 at 6:30 PM Central Daylight Time on Thursday, May 31, 2001.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Shirley Gaudin, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5560 (TDD)- (615) 532-8569.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizen's Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

**SUBSTANCE OF PROPOSED RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
ADULT AND FAMILY SERVICES DIVISION**

**CHAPTER 1240-4-4
STANDARDS FOR FAMILY DAY CARE HOMES**

AMENDMENTS

Paragraph (8) of Rule 1240-4-4.02, Ownership and Administration, is amended by deleting Paragraph (8) in its entirety and by substituting instead the following new language, so that, as amended, Paragraph (8) shall read as follows:

- (8) Liability and Medical Payment Insurance Coverage.
 - (a) General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.
 - (b) Automobile liability coverage shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) combined single limit of liability. The requirement of this subparagraph only applies to child care programs that transport children.

- (c) General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Three Hundred Thousand Dollars (\$300,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) general aggregate coverage, or Three Hundred Thousand Dollars (\$300,000) per occurrence.
- (d) Medical payment coverage shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under subparagraph (b), and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under subparagraph (c).
- (e) The requirements of this paragraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3).
- (f) Documentation that the necessary insurance is in effect, or that the governmental entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department's licensing staff.

Authority: *T.C.A. §§4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(B).*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (3-29)

**DEPARTMENT OF HUMAN SERVICES - 1240
ADULT AND FAMILY SERVICES DIVISION**

There will be hearings before the Tennessee Department of Human Services to consider the promulgation of amendments to the Department's rules pursuant to TCA §§ 4-5-201 et seq. and 71-3-501 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 Conference Room A, State Office Building, 531 Henley Street, Knoxville, Tennessee 37902 at 6:30 PM Eastern Daylight Time on Tuesday, May 22, 2001; and in the Second Floor Conference Room, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 6:30 PM Central Daylight Time on Thursday, May 24, 2001; and in the Second Floor Auditorium, 170 North Main Street, Memphis, Tennessee 38103 at 6:30 PM Central Daylight Time on Thursday, May 31, 2001.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled hearing or meeting dates, to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services ADA Coordinator, Shirley Gaudin, at 400 Deaderick Street, Nashville, Tennessee, (615) 313-5560 (TDD)- (615) 532-8569.

For a copy of this notice of rulemaking hearing, contact: William B. Russell, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee, 37248-0006 and (615) 313-4731.

SUBSTANCE OF PROPOSED RULES**CHAPTER 1240-4-6****LICENSURE RULES FOR CHILD CARE CENTERS SERVING SCHOOL-AGE CHILDREN****AMENDMENTS**

Subparagraph (b) of Paragraph (3) of Rule 1240-4-6-.06, Organization and Administration, is amended by deleting Subparagraph (b) in its entirety and by substituting instead the following new language, so that, as amended, Subparagraph (b) shall read as follows:

- (b) Liability and Medical Payment Insurance Coverage.
1. General liability, automobile liability and medical payment insurance coverage shall be maintained on the vehicles owned, operated or leased by the child care agency and on the operations of the child care agency's facilities.
 2. Automobile liability coverage shall be maintained in a minimum amount of Five Hundred Thousand Dollars (\$500,000) combined single limit of liability. The requirement of this part only applies to child care programs that transport children.
 3. General liability coverage on the operations of the child care agency facilities shall be maintained in a minimum amount of Five Hundred Thousand Dollars (\$500,000) per occurrence and Five Hundred Thousand Dollars (\$500,000) general aggregate coverage.
 4. Medical payment coverage shall be maintained in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children being transported in vehicles owned, operated or leased by the child care agency under part 2, and in the minimum amount of Five Thousand Dollars (\$5,000) for injuries to children resulting from the operation of the child care agency under part 3.
 5. The requirements of this subparagraph shall not apply to an agency that is under the direct management of a self-insured administrative department of the state, a county or a municipality or any combination of those three (3).
 6. Documentation that the necessary insurance is in effect, or that the governmental entity is self-insured, shall be maintained in the records of the child care agency and shall be available for review by the Department's licensing staff.

Authority: *T.C.A. §§4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(B).*

Subpart (ii) of Part 4 of subparagraph (f) of Paragraph (3) of Rule 1240-4-6-.07, Staff Qualifications, is amended by deleting subpart (ii) in its entirety and by substituting instead the following language so that, as amended, subpart (ii) shall read as follows:

- (ii) New caregivers shall complete two (2) clock hours of pre-service orientation training offered or approved by the Department and shall complete an additional six (6) hours of the required training within the first six (6) months of employment. For purposes of this rule, "pre-service" orientation shall mean that such orientation occurs within the first thirty (30) days of employment with the agency. Pending completion of the orientation training, the caregiver's status is conditional. Failure of the caregiver to complete the required two (2) hours of pre-service orientation and/or failure to complete the required six (6) hours of training within the first six (6) months of employment shall require that the employee be removed from caregiver duties for children until completion of the training.

Authority: TCA §§ 4-5-201 et seq.; TCA 71-1-105; 71-3-501 et seq.; 71-3-502(4)(A)(ii).

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-28)

**DEPARTMENT OF MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES - 0940
DIVISION OF MENTAL RETARDATION**

The Tennessee Department of Mental Health and Developmental Disabilities will hold a public hearing to consider the promulgation of new rules pursuant to T.C.A., Section 33-1-302, 305, and 307. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code. Ann., Section 4-5-204, and will take place in the First Floor Hearing Room, Andrew Johnson Tower, 725 James Robertson Parkway, Nashville, Tennessee, at 10:00 a.m., central time on the 21st day of May, 2001.

Written comments will be considered if received by close of business, May 18, 2001, at the DMHDD Office of Legal Counsel, 2600 Snodgrass Building, 312 Eighth Avenue North, Nashville, Tennessee 37243.

Individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Tennessee Department of Mental Health and Developmental Disabilities, to discuss any auxiliary aids or services needed to facilitate such participation or review. Such contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to the 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 Mental Health and Developmental Disabilities ADA Coordinator, Dr. Lindsey Douglass, Third Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Dr. Douglass' telephone number is (615) 741-7440; the department's TDD is (615) 532-6612. Copies of the notice are available from the Tennessee Department of Mental Health and Developmental Disabilities in alternative format upon request.

For a copy of the notice of rulemaking hearing, contact: Anita M. Daniels, Office of Legal Counsel, Tennessee Department of Mental Health and Developmental Disabilities, 2600 Snodgrass Building, 312 Eighth Avenue North, Nashville, Tennessee 37243; telephone (615) 532-6520

SUBSTANCE OF PROPOSED RULES

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0940-1-4-.01 PURPOSE

The purpose of these rules is to set forth the procedure for reporting to the statewide abuse registry incidents of suspected abuse, neglect, and/or mistreatment of individuals with mental retardation and/or developmental disabilities.

Authority: *T.C.A. 4-5-202, 4-5-204, 33-1-302, 33-1-305, 33-2-404, 33-2-415, 33-3-101–114, 68-11-1001 et seq., and Settlement Agreement in People First v. Clover Bottom, et al., relating to Clover Bottom Developmental Center, Greene Valley Developmental Center, and Nat T. Winston Developmental Center.*

0940-1-4-.02 DEFINITIONS

For the purpose of these rules, the terms listed below shall be interpreted as follows:

- (1) Division - The Division of Mental Retardation, Tennessee Department of Mental Health and Developmental Disabilities
- (2) Abuse - Physical abuse, sexual abuse, or verbal abuse as defined in these rules.
- (3) Physical abuse - Any act or action by an employee, volunteer, or other care giver to hit, slap, push, punish, throw things at, or otherwise physically hurt or injure an individual served. Any use of restraint banned by the Division (take down, prone restraint) by agencies under the scope of this policy, is also considered physical abuse.
- (4) Sexual abuse - Any sexual contact or attempt at sexual contact (includes kissing, excessive hugging, sexual touching, oral sex/intercourse) by an employee, volunteer, or other care giver with an individual served.
- (5) Verbal abuse - Any expression by an employee, volunteer, or other care giver, which threatens, harasses, frightens, or humiliates an individual served.
- (6) Mistreatment - Any act or actions by an employee, volunteer, or other care giver that threatens, harasses, or violates the basic rights of an individual served, including any action to steal from an individual served or to fiscally or sexually exploit an individual served. An example of fiscal exploitation: A group of staff and persons receiving services go out to a restaurant to eat together and the staff talks one of the service recipients into paying the bill for everyone at the table.
- (7) Misappropriation of property - Any act or actions by an employee, volunteer, or other care giver that makes or causes use of property of an individual served to the disadvantage of that individual, in any way which violates state or federal law, or the rules or policies of the Division, with or without the consent of the individual served.
- (8) Neglect - Any failure of an employee, volunteer, or other care giver to meet the person's basic needs for safety, supervision, and general well-being in such a manner that the individual is harmed or placed at risk of harm. Note: Staff leaving individuals served unattended in their home or in a vehicle, etc. (When it is not authorized in his/her ISP); staff attending to personal matters (e.g., shopping, caring for personal family members, etc.) instead of attending to the individual served, all constitute neglect.
- (9) Abuse registry - A centralized system for registration of an employee, volunteer or other care giver of an individual receiving services through the Division who has had substantiated allegation(s) of abuse, neglect or mistreatment of such individual.
- (10) Abuse Registry Review Committee - The committee developed by the Division to review substantiated allegations of abuse, neglect, mistreatment and/or misappropriation of property for purposes of placement on the abuse registry.
- (11) Investigation - A formal procedure for the review and examination of allegations of complaints of abuse, neglect, and/or mistreatment of an individual receiving services through the Division.

Authority: T.C.A. 4-5-202, 4-5-204, 33-1-302, 33-1-305, 33-2-404, 33-2-415, 33-3-101–114, 68-11-1001 et seq., and Settlement Agreement in *People First v. Clover Bottom, et al., relating to Clover Bottom Developmental Center, Greene Valley Developmental Center, and Nat T. Winston Developmental Center.*

0940-1-4-.03 ABUSE INVESTIGATION PROCEDURES

- (1) In accordance with the Settlement Agreement in *People First v. Clover Bottom*, all reportable incidents of alleged or suspected abuse, neglect, or mistreatment must be investigated by the Office of Investigation of the Division. Investigations must begin in a timely manner and should be completed within 30 days unless an extension is approved by the State Investigations Coordinator.
- (2) A detailed written report of the investigation and its conclusion shall be prepared. The report shall include the following:
 - (a) The allegation, complaint, or evidence giving rise to the investigation,
 - (b) Identification of alleged perpetrator,
 - (c) Investigator's conclusion as to whether allegation has been substantiated, including any violations of departmental policy or rule.
- (3) Staff who are alleged to have committed abuse, neglect, or mistreatment will be reassigned or placed on administrative leave until the results of the investigation are complete. Requests for exceptions to this requirement may be submitted to the Division's Investigations Coordinator for consideration.
- (4) Upon completion of the investigation, if charges of abuse, neglect, or mistreatment are substantiated, appropriate action shall be taken to discipline the alleged perpetrator, up to and including discharge or separation from employment.

Authority: T.C.A. 4-5-202, 4-5-204, 33-1-302, 33-1-305, 33-2-404, 33-2-415, 33-3-101–114, 68-11-1001 et seq., and Settlement Agreement in *People First v. Clover Bottom, et al., relating to Clover Bottom Developmental Center, Greene Valley Developmental Center, and Nat T. Winston Developmental Center.*

0940-1-4-.04 PROCEDURE FOR PLACEMENT ON THE ABUSE REGISTRY OF PERSONS WHO HAVE ABUSED, NEGLECTED, MISTREATED OR MISAPPROPRIATED THE PROPERTY OF INDIVIDUALS RECEIVING SERVICES THROUGH THE DIVISION.

- (1) If, based on the investigation, the Division determines that abuse, neglect, mistreatment and/or misappropriation of property has occurred, the case shall be forwarded to the Abuse Registry Committee.
- (2) The Abuse Registry Committee may, upon review of the cases submitted:
 - (a) Determine whether further information is necessary to substantiate a charge of abuse, neglect, mistreatment or misappropriation of property. If necessary, further information shall be requested.
 - (b) Determine which cases shall be submitted for inclusion on the Abuse Registry. The names of individuals convicted of federal, state or local criminal charges involving elements constituting abuse, neglect, mistreatment or misappropriation of a vulnerable individual's property shall be entered on the Abuse Registry.
- (3) Upon determination that a case shall be forwarded for inclusion on the Abuse Registry, the following shall occur:

- (a) The individual(s) implicated in the investigation shall be notified in writing at their last known mailing address.
- (b) The implicated individual(s) will be notified within ten (10) days of the determination of inclusion on the registry by the Abuse Registry Committee.
- (c) The written notice to the implicated individual(s) shall include:
 - 1. The nature of the allegation(s);
 - 2. The date and time of occurrence;
 - 3. The individual's right to a hearing, if requested, in writing, within thirty (30) days from the date of the notice;
 - 4. The fact that the failure to request a hearing in writing within thirty days will result in reporting the substantiated findings to the appropriate occupational registry or licensure authority;
 - 5. The consequences of waiving the right to a hearing;
 - 6. The consequences of a finding through the hearing process that the alleged abuse, neglect, mistreatment, or misappropriation of property did occur; and
 - 7. The fact that the individual has the right to be represented by an attorney at the individual's own expense.
- (d) If requested in writing, the hearing will be conducted as a contested case hearing pursuant to the Tennessee Administrative Procedures Act, T.C.A. 4-5-301 et seq. The hearing and the hearing record will be completed within one hundred twenty (120) days from the date of written request of the hearing, unless waived by the parties.
- (e) If the implicated individual chooses not to request a hearing, the determination by the Abuse Registry Committee shall be final. The individual's name shall then be forwarded to the Tennessee Department of Health pursuant to T.C.A. 68-11-1001 et seq.
- (f) The implicated individual may not want to request a hearing but may want to submit additional information in mitigation of the allegations against them. Such information may be submitted, in writing, to the Abuse Registry Committee for inclusion in the Abuse Registry record.
- (g) Upon a finding that an individual has abused, neglected, mistreated or misappropriated the property of an individual, or if the individual waives the right to a hearing, the finding shall be reported within ten (10) days to the implicated individual.
- (h) An individual's name may be removed from the Abuse Registry for the reasons set forth in T.C.A. 68-11-1004(e).
- (i) No individual listed on the Abuse Registry shall be allowed to volunteer or be employed to provide care to individuals receiving services through the Division.

Authority: T.C.A. 4-5-202, 4-5-204, 33-1-302, 33-1-305, 33-2-404, 33-2-415, 33-3-101–114, 68-11-1001 et seq., and Settlement Agreement in *People First v. Clover Bottom, et al.*, relating to *Clover Bottom Developmental Center, Greene Valley Developmental Center, and Nat T. Winston Developmental Center*.

This notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-32)

BOARD OF NURSING - 1000

There will be a hearing before the Tennessee Board of Nursing to consider the promulgation of amendment to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-7-207. 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 May, 2001.

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 Ave. North, 1st Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1000-1-.12, Fees, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) The Tennessee Board of Nursing hereby establishes fees as follows:

Fee	Amount
(a) R.N. Examination (R.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$ 90.00
(b) R.N. Re-examination (R.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$100.00
(c) R.N. Permit	\$ 25.00
(d) R.N. Endorsement	\$105.00
(e) R.N. Renewal	\$ 65.00
(f) R.N. Reinstatement	\$100.00

- (g) R.N. Verification to Other States \$ 25.00
- (h) Biennial State Regulatory Fee \$ 10.00
- (i) Certificate of Fitness \$200.00
- (j) Temporary Certificate of Fitness (permit) \$ 25.00
- (k) Change of Name \$ 0.00
- (l) Subparagraphs (a), (b), (d), and (e) include a \$15.00 fee to support impaired nurses.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-136, 63-7-106, 63-7-114, 63-7-123, and 63-7-207.

Rule 1000-2-.12, Fees, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) The Tennessee Board of Nursing hereby establishes fees as follows:

Fee	Amount
(a) L.P.N. Examination (L.P.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$ 90.00
(b) L.P.N. Re-Examination (L.P.N. applicants may also be required to pay a fee directly to the National Council of State Boards of Nursing.)	\$100.00
(c) L.P.N. Permitt	\$ 25.00
(d) L.P.N. Endorsement	\$105.00
(e) L.P.N. Renewal	\$65.00
(f) L.P.N. Reinstatement	\$100.00
(g) L.P.N. Verification to Other States	\$25.00
(h) Biennial State Regulatory Fee	\$10.00
(i) Change of Name	\$ 0.00
(j) Subparagraphs (a), (b), (d), and (e) include a \$10.00 fee to support impaired nurses.	

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-106, 63-1-136, 63-7-111, 63-7-114, 63-7-123, and 63-7-207.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of March, 2001. (03-16)

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-12-106. 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 16th day of May, 2001.

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 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 1730-1-.12, Continuing Education, is amended by deleting the first sentence in subparagraph (1) (a) in its entirety and substituting instead the following language, and is further amended by deleting part (3) (e) 2. in its entirety and substituting instead the following language, so that as amended, the new first sentence in subparagraph (1) (a) and the new part (3) (e) 2. shall read:

- (1) (a) Each licensee, in order to renew his license, must obtain twenty (20) hours of continuing education each calendar year.
- (3) (e) 2. Multi-Media - With successful completion of a written post-experience examination to evaluate material retention, multi-media courses may be taken for continuing education credit.
 - (i) A maximum of eight (8) hours of the twenty (20) hour requirement may be granted for multi-media courses during each calendar year.
 - (ii) 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

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, and 63-12-120.

Rule 1730-2-.03, Veterinary Facility Inspections to Obtain a Premises Permit, is amended by deleting subparagraph (3) (f) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (3) (f) shall read:

- (3) (f) Disposal of dead animals and waste
 - 1. Veterinary facilities shall dispose of dead animals, biological waste, and medical waste (including sharps) in a prompt, sanitary, and esthetic manner.
 - 2. The disposal of dead animals, biological waste, and medical waste (including sharps) shall comply with all federal, state, county and municipal laws, ordinances, and regulations.
 - 3. With the exception of large animals, all dead animals on the premises shall be refrigerated.
 - 4. Dead animals not claimed within five (5) calendar days by the owner or agent shall be disposed at the discretion of the veterinarian.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-129, and 63-12-139.

Rule 1730-2-.04, Recordkeeping, is amended by adding the following language as new subparagraph (1) (d):

- (1) (d) Notwithstanding the provisions of subparagraph (c), herd or flock animal records may be kept on a per client rather than on a per animal basis. Mobile units may keep these records at a permanent base of operations rather than on the mobile premise.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-2-101, 63-2-102, and 63-12-106.

Rule 1730-2-.08, Surgery, is amended by deleting subparagraphs (1) (c) and (1) (j) and substituting instead the following language, so that as amended, the new subparagraphs (1) (c) and (1) (j) shall read:

- (1) (c) Sterilization must include a steam pressure sterilization or autoclave. Gas sterilization is acceptable only for those instruments that cannot be autoclaved. Cold sterilization may be used for specialty items and is acceptable under field conditions.
- (1) (j) Anesthesia gas with positive pressure oxygen shall be available for small animal patients. Large animal anesthesia may be performed in accordance with current established guidelines from equine and animal practitioner national associations.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-139.

Rule 1730-2-.10, Radiology, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Radiology equipment and use shall be in accordance with federal and state statutes and regulations including, but not limited to:
 - (a) All radiographic devices must be registered with the Division of Radiological Health of the Department of Environment and Conservation.
 - (b) The facility must have adequate protective apparel (lead gloves and aprons) for everyone involved in the procedure.
 - (c) Written policies and instructions for operation of the radiographic machine must be posted near each machine.
 - (d) The facility shall have properly trained and qualified personnel before radiographic devices may be used.
 - (e) The facility shall utilize a film badge service and use individual film badges.
 - (f) A legible and easily viewed warning label shall be placed on the radiographic machine with the following statement: "CAUTION: This equipment produces radiation when energized."
 - (g) The facility shall post signs containing the radiation caution symbol and clearly identifying the x-ray room.
 - (h) The facility shall maintain a radiology log that includes: date, owner, animal, species, views, exposure settings and initials of persons involved in taking the radiographs.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, and 63-12-139.

Rule 1730-2-.11, Animal Quarters, is amended by adding the following language as new paragraph (2):

- (2) Small animals housed outside must have adequate shelter and bedding if the temperature drops below fifty degrees (50°) Fahrenheit and sufficient cooling or shade if the temperature rises above eighty-five degrees (85°) Fahrenheit.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, and 63-12-139.

Rule 1730-2-.12, Reserved, is amended by deleting the catchline in its entirety and substituting instead the following new catchline, and is further amended by adding the following language as new paragraphs (1) and (2), so that as amended, the new catchline and the new paragraphs (1) and (2) shall read:

1730-2-.12 RENEWAL OF PREMISES PERMIT/REINSTATEMENT OF ADMINISTRATIVELY REVOKED PREMISES PERMIT.

- (1) Renewal of Premises Permit

- (a) The due date for renewal is the expiration date on the most current facility premises permit/renewal permit.
 - (b) A renewal application form will be mailed to each facility registered with the Board to the last address provided to the Board. Failure to receive such notification does not relieve the facility of the responsibility of timely meeting all requirements for renewal.
 - (c) To be eligible for renewal, a facility must have all of the following items completed and submitted to the Division of Health Related Boards on or before the expiration date:
 - 1. A completed and signed Board renewal application form;
 - 2. The renewal and state regulatory fees as provided in Rule 1730-2-.06; and
 - 3. Compliance with renewal inspection as provided in Rule 1730-2-.02.
 - (d) A facility that fails to comply with the renewal rules in this paragraph shall have its premises permit processed for administrative revocation by the Board.
 - (e) Any facility that receives a notice of intent of administrative revocation may, prior to the next scheduled Board meeting, execute and file in the Board's administrative office an affidavit of retirement which will effectively retire the premises permit as of the date the affidavit was received in the Board's administrative office.
- (2) Reinstatement of Administratively Revoked Premises Permit
- (a) Unlike premises permits revoked for cause which may not be reinstated, premises permits administratively revoked pursuant to this rule may be reinstated upon meeting the following conditions:
 - 1. Payment of all past due renewal and state regulatory fees; and
 - 2. Payment of the late renewal fee as provided in Rule 1730-2-.06; and
 - 3. Compliance with inspection as provided in Rule 1730-2-.02.
 - (b) Reinstatement decisions pursuant to this rule may be made administratively or reviewed by the Board.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-121, and 63-12-139.

Rule 1730-2-.13, Unprofessional Conduct of A Premises Owner and/or Veterinarian, is amended by adding the following language as new paragraph (12) and renumbering the current paragraph (12) as paragraph (13):

- (12) Submission of an untrue renewal form or letter.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-121, 63-12-124, and 63-12-139.

Rule 1730-2-.15, Disciplinary Actions, Civil Penalties, and Assessment of Costs, is amended by deleting part (2) (e) 1. in its entirety and substituting instead the following language, so that as amended, the new part (2) (e) 1. shall read:

- (2) (e) 1. Administrative Revocation. An administrative action taken pursuant to Rule 1730-1-.09 or Rule 1730-2-.12 when a licensee fails to timely renew licensure and all other options available to the licensee have been ignored. Licenses which are administratively revoked may be reinstated upon meeting the conditions stated in rule 1730-1-.11.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-121, 63-12-122, 63-12-125, and 63-12-139.

Rule 1730-3-.12, Continuing Education, is amended by deleting subparagraph (1) (a) and part (3) (e) 2. in their entirety and substituting instead the following so that as amended, the new subparagraph (1) (a) and the new part (3) (e) 2. shall read:

- (1) (a) Each licensee, in order to renew his license, must obtain twelve (12) hours of continuing education each calendar year. When continuing education credit is obtained by attending lectures/meeting, no credit will be given for a program that is less than one (1) hour.
- (3) (e) 2. Multi-Media - With successful completion of a written post-experience examination to evaluate material retention, multi-media courses may be taken for continuing education credit.
- (i) A maximum of four (4) hours of the twelve (12) hour requirement may be granted for multi-media courses during each calendar year.
- (ii) 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

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-120, and 63-12-135.

Rule 1730-4-.08, Renewal Application/Reinstatement of Administratively Revoked Certificate, is amended by deleting part (1) (c) 2. in its entirety and substituting instead the following language, and is further amended by adding the following language as new part (1) (c) 3., so that as amended, the new parts (1) (c) 2. and (1) (c) 3. shall read:

- (1) (c) 2. The renewal and state regulatory fees as provided in Rule 1730-4-.06; and
- (1) (c) 3. Compliance with inspection as provided in Rule 1730-4-.07.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-12-106, 63-12-121, and 63-12-141.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-25)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, 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 Region II conference room of the Tennessee Wildlife Resources Agency, Region II building, located at 5105 Edmondson Pike, Nashville, Tennessee, commencing at 9:00 A.M., on the 24th day of May, 2001.

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, 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****REPEAL**

Rule 1660-1-2-.01 Artificially Propagated Game Birds shall be repealed in its entirety.

Authority: TCA. §70-1-206.

AMENDMENT

Paragraph (1) of Rule 1660-1-2-.02 Migratory Bird Hunting is amended by deleting “Reservoir, Land Between the Lakes-Bear Creek Unit” and inserting the word “Lake” in its place.

Paragraph (1), subparagraph (a) of Rule 1660-1-2-.02 Migratory Bird Hunting is amended by deleting “Land Between the Lakes-Bear Creek Unit”.

Paragraph (1), subparagraph (a) of Rule 1660-1-2-.02 Migratory Bird Hunting is further amended by deleting the word “Reservoir” and inserting the word “Lake” in its place.

Paragraph (2), subparagraph (a) of Rule 1660-1-2-.02 Migratory Bird Hunting is amended by inserting “Shelby Forest” between “E,” and “and Wolf River”.

Rule 1660-1-2-.02 Migratory Bird Hunting is amended by adding the following language as Paragraph (4):

- (4) Special Rules and Regulations – Waterfowl Hunting on Land Between the Lakes
 - (a) Season, hours, bag and possession limits same as statewide regulations, unless further restricted by USFS – Land Between the Lakes.
 - (b) Areas closed to waterfowl hunting:
 1. Areas above 359’ elevation, as posted.
 2. Bards Lake.
 3. Rushing Bay.
 4. Campgrounds, lake access, and other public use areas and safety zones as posted.

Authority: T.C.A. §§70-1-206 and 70-4-107.

**CHAPTER 1660-1-4
RULES AND REGULATIONS FOR DOGS**

AMENDMENTS

The title of Chapter 1660-1-4 Rules and Regulations For Dogs shall be amended by deleting the word “Dogs” and inserting in its place “Field Trials and Dog Training” so that, as amended, the title shall read, “Rules and Regulations For Field Trials and Dog Training”.

Authority: T.C.A. §70-1-206.

The title of Rule 1660-1-4-.01 Raccoon Dogs Field Trials is amended by deleting the word “Dogs” and inserting “Dog” in its place so that, as amended, the title shall read, “Raccoon Dog Field Trials”.

Authority: T.C.A. §70-1-206.

Paragraph (1) of Rule 1660-1-4-.01 Raccoon Dogs Field Trials is amended by deleting it in its entirety and adding the following language, so that, as amended, the rule shall read:

- (1) Organized raccoon dog clubs may run field trials provided they justify, in writing, to the Regional Manager of the TWRA region where the trial is to be held a minimum of fifteen (15) days prior to the opening of the trial. No club will be permitted to conduct more than seven (7) field trials during the closed season on raccoons of any one calendar year.

Paragraph (7) of Rule 1660-1-4-.01 Raccoon Dogs Field Trials is amended by deleting it in its entirety and by renumbering Paragraph (8) consecutively as Paragraph (7).

Authority: T.C.A. §70-1-206.

Paragraph (1) of Rule 1660-1-4-.02 Other Trials is amended by deleting it in its entirety and adding the following language, so that, as amended, the rule shall read:

- (1) Organized bird dog clubs, rabbit dog clubs, retriever dog clubs, foxhound clubs, and other organized clubs as recognized by proclamation, may run field trials provided they justify, in writing, to the Regional Manager of the TWRA region where the trial is to be held a minimum of fifteen (15) days prior to the opening of the trial.

Authority: T.C.A. §70-1-206.

REPEAL

Rule 1660-1-4-.03 Control on Wildlife Areas shall be deleted in its entirety.

Authority: T.C.A. §70-1-206.

**CHAPTER 1660-1-8
RULES AND REGULATIONS OF HUNTS**

AMENDMENTS

Rule 1660-1-8-.03 Fees For Hunting – Wildlife Management Areas is amended by deleting it in its entirety and adding the following language, so that, as amended, the rule shall read:

1660-1-8-.03 PERMIT REQUIREMENTS—WILDLIFE MANAGEMENT AREAS AND REFUGES.

- (1) Permits (On Wildlife Management Areas and Refuges Where Permits Are Required).
 - (a) Before any person may hunt on a wildlife management area or refuge he must possess a valid and appropriate area hunt permit as specified in Items (2) and (3) below, except when exempt from doing so under the provisions of Item (1)(b) below. Such permits are not transferable.
 - (b) Hunt applicants or participants must be sixteen years of age or over for hunting turkey, deer, bear and hog, except that youths under sixteen may apply and participate if they possess a hunter safety certificate and are accompanied on the hunt by an adult. Youths under sixteen years of age are exempt from purchasing an area hunt permit on all wildlife management areas and refuges when hunting any species except big game, but they must be accompanied on the hunt by an adult who possesses a valid hunt permit.
 - (c) A management area hunt permit is automatically voided when the permittee's bag limit is filled.
- (2) Reelfoot Preservation Permit.
 - (a) Before any person shall hunt, trap fish or participate in boating upon the waters or lands of Reelfoot Wildlife Management Area, including the washout and tailwaters downstream as marked, and that portion of the Reelfoot National Wildlife Refuge in Tennessee, a Reelfoot Preservation Permit shall be carried on the person of said users when participating in the above mentioned activities for inspection by duly authorized officers.
 - (b) Exemptions—Persons exempt from the Reelfoot Preservation Permit requirement are those under sixteen (16) years of age, residents sixty-five (65) years of age or older, and holders of the adult Sportsman License or Lifetime Sportsman License.
- (3) Before any person, except those under 16 years of age hunting small game and waterfowl, may hunt on a wildlife management area or refuge, he must possess a permit as outlined below.
 - (a) A WMA Small Game permit is required on the following wildlife management areas and refuges:

AEDC	Kyker Bottoms Refuge
Alpine Mountain	Laurel Hill
Anderson Tully	Lick Creek
Bark Camp Barrens	Lick Creek Bottoms
Barkley Units I & II	Maness Swamp Refuge
Bean Switch Refuge	Moss Island
Big Sandy (including Gin Creek)	Natchez Trace
Black Bayou Refuge	New Hope
Bridgestone/Firestone Centennial Wilderness	Nolichucky
Buffalo Springs	North Chickamauga
Camden Units I & II	Creek
Catoosa	Oak Ridge
Cheatham	Obion River
Cheatham Lake	Old Hickory (Unit I)
Chickamauga (Candies Creek, Johnson Bottoms, Rogers	Old Hickory Lock 5 Refuge
Creek, Yellow Creek Units)	Pea Ridge
Chuck Swan	Percy Priest (Units I & II)
Cordell Hull	Perryville
Cordell Hull Refuge	Prentice Cooper
Cove Creek	Rankin
Cumberland Springs	Royal Blue
C. M. Gooch	Shelby Forest
Duck River	Tellico Lake
Eagle Creek	Tigrett
Eagle Lake Refuge	Watts Bar (Long Island Unit)
Ernest Rice Sr.	West Sandy
Foothills	White Lake Refuge
Forks of the River	White Oak
Haley-Jaqueth	Williamsport
Harmon Creek	Wolf River
Haynes Bottom	Woods Reservoir Refuge
Henderson Island Refuge	Yuchi Refuge at Smith
Hermitage	Bend
Hiwassee Refuge	
Hop-In Refuge	
Jackson Swamp	
Jarrell Switch Refuge	
Kingston Refuge	

A WMA small game permit is required for individuals participating in dog training. A field trial permit is required on Percy Priest WMA and the Tellico Lake – McGhee-Carson Unit.

- (b) A WMA Small Game and Waterfowl permit is required for hunting waterfowl on the following wildlife management areas and refuges:

AEDC	Ernest Rice Sr.	Nolichucky
Barkley Units I & II	Harmon Creek	North Chickamauga Creek
Big Sandy (including Gin Creek)	Haynes Bottom	Oak Ridge
Camden Units I & II	Hiwassee Refuge	Obion River
Cheatham Lake	Jackson Swamp	Old Hickory (Unit I)
Chickamauga (Candies Creek, Johnson Bottoms, Rogers Creek, Yellow Creek Units)	Jarrell Switch Refuge	Shelby Forest
Cordell Hull	Moss Island	Tigrett
C. M. Gooch	Lick Creek	Watts Bar (Long Island Unit)
Duck River	Lick Creek Bottoms	West Sandy
	Moss Island	White Oak
	New Hope	Yuchi Refuge at Smith Bend

- (c) A WMA big game permit is required for hunting deer, bear, boar, feral hogs, and turkey on the following wildlife management areas and refuges:

AEDC	Duck River	North Chickamauga Creek
Alpine Mountain	Eagle Creek	Oak Ridge
Anderson Tully	Eagle Lake Refuge	Obion River
Bark Camp Barrens	Ernest Rice Sr.	Old Hickory (Unit I)
Barkley Units I & II	Fall Creek Fall State Park	Old Hickory Lock 5
Bean Switch Refuge	Foothills	Refuge
Big Sandy (including Gin Creek)	Forks of the River	Pea Ridge
Bridgestone/Firestone Centennial Wilderness	Harmon Creek	Percy Priest (Unit I)
Buffalo Springs	Haynes Bottom	Perryville
C. M. Gooch	Henderson Island Refuge	Prentice Cooper
Camden Units I & II	Hiwassee Refuge	President's Island
Catoosa	Hop-In Refuge	Rankin
Cheatham	Jackson Swamp	Royal Blue
Cheatham Lake	Jarrell Switch Refuge	Shelby Forest
Cherokee	Kingston Refuge	Tellico Lake
Chickamauga (Candies Creek, Johnson Bottoms, Rogers Creek, Yellow Creek Units)	Laurel Hill	Tigrett
Chuck Swan	Lick Creek	Watts Bar (Long Island Unit)
Cordell Hull	Lick Creek Bottoms	West Sandy
Cordell Hull Refuge	Maness Swamp Refuge	White Lake Refuge
Cove Creek	Moss Island	White Oak
Cumberland Springs	Natchez Trace	Williamsport
	Nathan B. Forrest State Historical Area	Wolf River
	New Hope	Woods Reservoir Refuge
	Nolichucky	Yuchi Refuge at Smith Bend

- (d) A WMA Small Game or WMA Small Game and Waterfowl permit is required to trap on all areas that require a small game hunting permit.

Authority: T.C.A. §§70-1-206 and 70-4-107.

REPEAL

Rule 1660-1-8-.04 Hunting and Miscellaneous Uses of Wildlife Management Areas and Other Tennessee Wildlife Resources Agency Controlled Lands, is repealed.

Authority: T.C.A. §§70-1-206 and 70-4-107.

AMENDMENT

Rule 1660-1-8-.05 Permit Applications and Drawings is amended by deleting it in its entirety and adding the following language, so that, as amended, the rule shall read:

1660-1-8-.05 PERMIT APPLICATIONS AND DRAWINGS.

- (1) Quota big game hunt drawings
 - (a) Each individual desiring to participate in a managed quota deer, bear, turkey, or wild boar hunt, or in a statewide special season quota hunt, must complete an application supplied by the Tennessee Wildlife Resources Agency, except as indicated in items (i), (j), and (k) below. Applications will be available only at locations and during periods as designated by the Tennessee Wildlife Resources Agency.
 - (b) Applicants may submit only one application, except youths ten (10) to sixteen (16) years of age may apply for one additional youth only hunt on management areas. If an individual's name (except youths applying for one additional youth only hunt as noted above) appears on more than one application, that individual will be rejected, his permit fee forfeited, and will be subject to prosecution.
 - (c) For quota big game hunts on wildlife management areas, applicants must be at least ten (10) years of age prior to the date of the hunt.
 - (d) All information requested on the application must be completed by the applicant. Failure to clearly specify all information will result in the application being returned.
 - (e) Applications must be received by the Tennessee Wildlife Resources Agency as specified on the application. Applications received after this deadline will be returned.
 - (f) All persons wishing to hunt together as a party must submit their applications as one unit, indicating identical hunt choices on all individual applications. The number of applicants comprising a party may not exceed fifteen (15) members. If the number of applicants exceeds the maximum party size, all applications of that party will be returned.
 - (g) Each application must be accompanied by appropriate fees for each applicant thereon. Unsuccessful applicants will be reimbursed their fee.
 - (h) Priority drawings and procedures for qualifying with priority status will be established as indicated on applications.
 - (i) A drawing will be held to determine successful applicants. If unfilled hunt quotas exist after the regular drawing a vacancy drawing or drawings will be held to fill those vacancies. Successful and unsuccessful applicants will be notified by mail.

- (j) When vacancies exist following the drawing(s), quotas will be filled by issuing permits to any applicant, on a first-come, first-served basis at Regional Offices, Nashville Office, and at other locations as designated by the Agency. Permits are not transferable. An individual may obtain up to fifteen (15) permits for himself or for other individuals at one time, but will be allowed only one (1) permit per person for each available hunt, until all persons waiting in line at that location have had an opportunity to select permits.
 - (k) Land Between the Lakes quota hunt drawings – Individuals desiring to participate in a quota hunt on Land Between the Lakes must submit an application as instructed by the USDA Forest Service.
 - (l) Individuals who qualify to hunt and fish without a license under the terms of T.C.A. §70-2-204 are not required to obtain a permit in order to participate in special season deer or turkey hunts while hunting on lands referred to in T.C.A. §70-2-204.
- (1) Quota Hunt Drawings on Gallatin Steam Plant and Hartsville sites.
- (a) Each individual desiring to participate in a quota hunt must complete a hunt application supplied by the Tennessee Valley Authority. Only one application is permitted per individual.
 - (b) Applications filled out incorrectly or illegibly may be rejected.
 - (c) Applications must be received by the Tennessee Valley Authority as specified on the application. Applications received after this deadline will be disregarded.
 - (d) A computer drawing will be held to determine successful applicants. Successful and unsuccessful applicants will be notified by mail.
- (3) Waterfowl blind drawing and allocation procedure on wildlife management areas.
- (a) Permanent blind sites will be allocated by hand-held drawings for the wildlife management areas: Barkley-Units I and II, Big Sandy (including Gin Creek Unit), Camden-Units I and II, Cheatham Lake, Cordell Hull, Gooch-Unit A, Harmon's Creek, Haynes Bottom, Old Hickory-Units I and II, Reelfoot (except as provided in Rule 1660-1-2-.02), Tigrett, West Sandy, and Woods Reservoir of A.E.D.C.
 - (b) Each individual desiring to participate in the waterfowl blind drawing must complete an application supplied by the Tennessee Wildlife Resources Agency. Each individual wishing to compete in the drawing must appear in person at the designated location. Applications must be submitted between the hours of 7 a.m. and 10 a.m. (local time) on the first Saturday in August.
 - (c) No individual may apply for more than one area. One application is permitted per person. Each applicant must be at least sixteen (16) years of age to compete in the drawing or sign-on.
 - (d) Individuals must produce the following licenses and permits in order to compete in the drawing;
 - All areas (except Old Hickory Unit II and Reelfoot WMA) – Annual Hunting and Fishing License and Annual Small Game and Waterfowl Permit, or Sportsman License
 - Old Hickory Unit II – Annual Hunting and Fishing License and Waterfowl License
 - Reelfoot WMA – Annual Reelfoot Preservation Permit

Non-residents are required to possess appropriate non-resident licenses in lieu of resident licenses.

- (e) Applications will be drawn in order to establish priorities for choice of blind sites. All participants wishing to sign-on with a successful applicant must do so when he makes his choice of blind sites. An individual's application for blind selection is immediately voided when he signs-on with another applicant. All individuals wishing to sign-on must possess the necessary licenses and permits as indicated in subparagraph (d). Individuals desiring to sign-on must be present. After all blinds are assigned, the drawing will continue selecting 50 additional names to establish order eligibility to receive cancelled or unbuilt blinds. These 50 individuals selected will have the option to choose in order of eligibility, cancelled blind of his choice.
 - (f) Permits for blinds will be issued at the time of the drawing. For cancelled or unbuilt blinds, permits will be issued as selected in subparagraph (e).
 - (g) 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.
- (4) Cherokee Special Hunts (Cherokee Wildlife Management Area in designated Areas).
- (a) Cherokee special hunts may consist of two types—Party Dog Hunts and Party Still Hunts.
 - (b) No person may apply for more than one application. If two or more applications are received representing one individual, all applications of that individual will be rejected, his permit fee forfeited, and will be subject to prosecution. Applications must be postmarked no later than the *date specified*. Persons applying for party hunts may also apply for quota big game hunts subject to rules found in paragraph (1). Quota big game hunt applicants may also apply for party hunts. Persons drawn on one party hunt may obtain a vacancy permit for other party hunt dates, however, no person may participate in or possess a permit for more than one Cherokee Quota or Party Hunt per hunt date.
 - (c) The party application shall contain a minimum of sixty members and a maximum of one hundred (100). All information requested on the application must be completed for all party applicants. Failure to clearly specify all information will result in the application being returned. Non-residents may purchase the appropriate license after arrival in Tennessee. Each application must contain applicable permit fees for all individuals in the party.
 - (d) A drawing will be held to determine the successful party applicants, hunt areas, and hunt dates. The first drawn and in subsequent order will be given their choice of the type of hunt, compartment and hunt date as specified on their application. Vacant hunts remaining after the draw will be allocated on a first-come, first-serve basis to unsuccessful parties.
 - (e) The party leader may request no substitutions for members of the party who cannot appear, but may request vacancy permits providing the number does not increase the party beyond one hundred (100) members. The party leader shall send the applicable fees for each permit requested. This fee shall be nonrefundable. The deadline for requesting vacancy permits shall be shall be fourteen days prior to the hunt date.

- (f) The party leader shall insure that prior to issue, that all vacancy permits contain the information requested. This information shall include name, address, and license number of each individual issued a vacancy permit. Once the party leader assigns a name to a permit the permit may not be reassigned to other individuals.
 - (g) The carbon copies of all vacancy permits issued to the party leader shall be returned to the designated TWRA office within ten (10) days after the hunt date.
- (5) Issuance of miscellaneous quota permits not governed by existing regulations.
- (a) Special hunts which require hand-held drawings may be identified by means of annual Proclamation, times, dates, and locations of these drawings will also be identified.
 - (b) All information requested on the application must be completed by the applicant.
 - (c) If an individual's name appears on more than one application, that individual will be rejected.
 - (d) A random drawing will be utilized to determine successful applicants.
 - (e) Permits remaining following the initial drawing will be allocated on a first-come, first-served basis at times and dates as specified by TWRA.

Authority: T.C.A. §§70-1-206 and 70-4-107.

REPEAL

Rule 1660-1-8-.06 Hunting and Miscellaneous Uses of Public Hunting Areas is repealed.

Authority: T.C.A. §§70-1-206, 70-5-108.

CHAPTER 1660-1-11 RULES & REGULATIONS GOVERNING SHOOTING

AMENDMENT

Rule 1660-1-11-.02 Operation of Private Wildlife Shooting Preserves is amended by deleting the word shooting from the title so as amended the title shall read as follows:

1660-1-11-.02 OPERATION OF PRIVATE WILDLIFE PRESERVE

Rule 1660-1-11-.02 Operation of Private Wildlife Shooting Preserves is further amended by deleting the current language in its entirety and substituting the following language so that as amended the Rule shall read as follows:

- (1) Definitions.
 - (a) Private Wildlife Preserve means a privately owned or lease controlled tract of land on which a person may hunt captive wildlife originating from a legal source.
 - (b) Wildlife means all warm-blooded animals classified under TCA 70-4-403 as Class II or Class III Wildlife.

(2) Permits.

- (a) Any person desiring to operate a Private Wildlife Preserve as herein defined shall make application to the Wildlife Resources Agency for a permit to do so. The Wildlife Resources Agency will cause an inspection to be made of the wildlife preserve and if same shall be found to be meeting the qualifications of these rules and regulations, a permit will be issued. The permit will grant the privilege to the owner or operator of said Private Wildlife Preserve to release captive wildlife approved by the Wildlife Resources Agency. The species to be released will be indicated on the permit.

(3) Animal Possession and Release.

- (a) Wildlife indigenous to Tennessee may not be held, released, or hunted on a wildlife preserve unless specifically authorized by the wildlife preserve permit. All Class I Wildlife species, white-tailed deer (*Odocoileus virginianus*), wild turkey (*Meleagris gallipavos*), and black bear (*Ursus americanus*) are specifically prohibited from being held, released and hunted under the authority of a wildlife preserve permit. Any wildlife on the Endangered or Threatened Species list(s) published by the State of Tennessee or the United States federal government are also prohibited from being held, released or hunted on a wildlife preserve. Game species, excluding black bear, that are naturally occurring within the boundaries of a wildlife preserve may be hunted in accordance with statewide regulations, license and permit requirements.
- (b) Any wildlife authorized for release on the wildlife preserve may be taken with gun, archery equipment or trap. Non-indigenous mammals released on the wildlife preserve and which escape from the wildlife preserve may be recaptured by the owner, operator or regular employees of the preserve by means of tranquilizer gun, trap or with the aid of dogs. The recapture of escaped animals is permitted only with prior approval of the Tennessee Wildlife Resources Agency; however, the recapture of escaped indigenous wildlife is not permitted.

(3) Facilities.

- (a) The land area from which a permit will be issued must contain a minimum of twenty (20) acres and this land must be in one continuous tract. On wildlife preserves where big game species are hunted, the boundaries must be fenced with woven wire fence of a minimum twelve (12) gauge wire and such fence shall be a minimum of thirty-six (36) inches in height. On wildlife preserves where foxes and raccoons are hunted, the boundaries must be fenced with woven wire fence of a minimum twelve (12) gauge wire with a maximum of four (4) inch spacing, anchored at the base and such fence shall be a minimum of seventy-two (72) inches in height. On wildlife preserves where rabbits are hunted, the boundaries must be fenced with wire fence with a maximum of two (2) inch spacing anchored at the base and such fence shall be a minimum of thirty-six (36) inches in height. Any wildlife preserve that requires its boundaries to be fenced must have any entrance to such wildlife preserve posted with signs identifying it as a wildlife preserve. Any wildlife preserve that does not have to be fenced must have its boundaries posted every fifty (50) yards with signs identifying it as a private wildlife preserve.

(5) Records.

- (a) Permittees will maintain records showing the number and species of wildlife purchased, the name and address of the source of supply, number and species propagated, the number and species released, and the number and species taken. Also, permittees will maintain records listing the name and address of each hunt participant, the date of the hunt and their hunt record. These records are to be kept for a minimum of three (3) years and be available for inspection by agents of the Tennessee Wildlife Resources Agency upon request.

- (6) Seasons.
 - (a) Private wildlife preserve seasons open and close as promulgated by the Tennessee Wildlife Resources Commission.

Authority: T.C.A. §70-1-206

**CHAPTER 1660-1-14
RULES AND REGULATIONS FOR REFUGES AND WILDLIFE MANAGEMENT AREAS**

AMENDMENT

Chapter 1660-1-14 Rules and Regulations for Refuges and Wildlife Management Areas is amended by deleting it in its entirety and adding the following language so that, as amended, the rule shall read:

**CHAPTER 1660-1-14
RULES AND REGULATIONS FOR REFUGES,
WILDLIFE MANAGEMENT AREAS, AND PUBLIC HUNTING AREAS**

1660-1-14-.01 REPEALED.

Authority: T.C.A. §70-1-206.

1660-1-14-.02 REPEALED.

Authority: T.C.A. §70-1-206.

1660-1-14-.03 CATOOSA, CHEATHAM, CHUCK SWAN, FORKS OF THE RIVER, LAUREL HILL, PEA RIDGE, AND PRENTICE COOPER WILDLIFE MANAGEMENT AREAS

- (1) Unauthorized entry or presence on Catoosa, Cheatham Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, and Prentice Cooper Wildlife management Areas is prohibited during the following times and conditions:
 - (a) Between sunset and sunrise.
 - (b) When, in the judgment of the area manager, weather conditions are such that travel over roads would result in undue damage to said roads.
 - (c) During such periods as the Wildlife Resources Agency, or other authorized agencies, may be conducting special project (trapping, predator control, etc.), the nature of which is such that the presence of the general public would have a detrimental effect on such operations or when the nature of the operation may constitute a danger to the public.
 - (d) When fire hazards exist.
- (2) Said area shall be temporarily posted when any of the conditions under (b), (c) and (d) exist.
- (3) The use of any alcoholic beverage is prohibited on Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, and Prentice Cooper Wildlife Management Areas, except in designated camping areas.

Authority: T.C.A.. §§70-1-206 and 70-4-107.

1660-1-14-.04 REPEALED.

Authority: T.C.A.. §§70-1-206 and 70-4-107.

1660-1-14-.05 REPEALED

Authority: T.C.A.. §70-1-206.

1660-1-14-.06 REPEALED.

Authority: T.C.A.. §§70-1-206 and 70-4-107.

1660-1-14-.07 REPEALED.

Authority: T.C.A.. §§70-1-206 and 70-4-107.

1660-1-14-.08 REPEALED.

Authority: T.C.A.. §70-1-206.

1660-1-14-.09 REPEALED.

Authority: T.C.A.. §70-1-206.

1660-1-14-.10 STATE OPERATED WILDLIFE AND/OR WATERFOWL REFUGES.

- (1) The following regulations apply to wildlife and/or waterfowl refuges:
 - (a) The hunting, fishing, killing, taking and/or attempted taking of any species of wildlife is prohibited, except where specifically provided by proclamation.
 - (b) The discharging or firing of any type of weapon within, or into a refuge is prohibited, except during designated hunts.
 - (c) The concentrating, driving, rallying, or disturbance of waterfowl and/or coots by means of the aid of water, land, or air conveyance or by any other means whatsoever is prohibited.

- (d) Public use of refuge lands is permitted, except as otherwise prohibited by proclamation or rule. Public use is limited to activities of a temporary nature only.
 - (e) Weapons are prohibited on lands and waters of refuges at all times, except:
 - 1. Weapons are permitted while traveling through refuges on main river channels.
 - 2. Weapons are permitted during designated hunts.
 - (f) The construction of piers, boathouses, grills, or any other structure which is permanently affixed to the land or water is specifically prohibited on Hiwassee and Paint Rock Refuges.
- (2) The following regulations apply to Amnicola Refuge and Nickajack Cave Refuge:
- (a) Use of alcohol and drugs is prohibited.
 - (b) Camping or loitering is prohibited.
 - (c) Firearms and/or fireworks are prohibited.
 - (d) Picnicking prohibited unless provided for at designated areas.
 - (e) Pets must be confined to leash or carrier.
 - (f) Entrance on and/or use of Amnicola Refuge shall be by written permission only, and only at such time specified in the written permit.
 - (g) The Executive Director of the Tennessee Wildlife Resources Agency or persons designated by him shall have sole authority to grant the permission described above.
 - (h) Persons desiring use of Amnicola Refuge must contact the TWRA Region 3 Office, 464 Industrial Blvd., Crossville, Tennessee 38555 at least 10 days prior to the date for which permission is desired in order to allow adequate time for processing the permit.
 - (i) Trespass by land or water for any use is prohibited on or in the Nickajack Cave Refuge except that use of the observation deck and access trail to the deck is permitted between April 1 and October 15, inclusive, and that fishing by sport fishing methods as set out by statute or proclamation is permitted as long as no vessel or person enters the refuge boundary.

Authority: T.C.A. §§70-1-206 and 70-4-107.

1660-1-14-.11 TELlico LAKE WILDLIFE MANAGEMENT AREA AND REFUGE.

- (1) Artifact Hunting.

- (a) No person shall disturb or remove any artifact from the area without specific authorization.
- (b) Digging, probing sub-surface or the use of under water snorkeling or scuba techniques to identify artifact areas is prohibited without specific authorization.

Authority: T.C.A. §§70-1-206 and 70-4-107.

1660-1-14-.12 CHEATHAM LAKE WILDLIFE MANAGEMENT AREA.

- (1) Borum Pond: Use of gasoline-powered motors is prohibited on all waters.

Authority: T.C.A. §§70-1-206.

1660-1-14-.13 HUNTING AND MISCELLANEOUS USES OF WILDLIFE MANAGEMENT AREAS AND OTHER TENNESSEE WILDLIFE RESOURCES AGENCY CONTROLLED LANDS.

- (1) General.
 - (a) On management areas, the hunter (except raccoon, opossum, and turkey hunters) may not enter prior to two (2) hours before sunrise, and he must be out of the area by one (1) hour after sunset or legal closing time. Raccoon and opossum hunters must be out of the area one (1) hour after sunrise, except on the Cherokee Wildlife Management Area.
 - (b) Only guides approved by the hunt manager will be allowed on managed hunts and these may not carry guns while guiding unless they possess a valid hunting license, big game stamp and area hunt permit. When compartments are assigned by the hunt manager, hunters must remain in the compartment assigned.
 - (c) Unauthorized persons are prohibited from being in the wildlife management area during deer, bear, boar and turkey hunts, except on the Cherokee and Land Between the Lakes Wildlife Management Area, or as otherwise specified by rule or proclamation.
 - (d) Use, possession or transportation of firearms, bows and arrows or other weapons is expressly prohibited except when authorized under these regulations. On areas where overnight camping is permitted weapons must remain in camp except during legal hunting hours.
- (2) Safety Rules.
 - (a) No hunt participant shall be in possession of any alcoholic beverage, narcotic drug, barbiturate, or marijuana while hunting within a management area or other Wildlife Resources Agency controlled lands. No individual may be under the influence of these substances at any time while within a management area or other Wildlife Resources Agency controlled lands.
 - (b) Firearms loaded with ammunition in either the chamber or magazine may not be transported in or on motorized vehicles. Except that, muzzleloaders may be transported in a loaded condition if the percussion cap or primer is removed from the nipple or tube. Flintlock muzzleloaders must have the priming powder removed from the pan, the frizzen open and the vent plugged.

- (c) Hunt participants may not carry sidearms while within the management area except during hunts where authorized. Hunt participants may not carry sidearms on their person except during authorized hunting hours on wildlife management area.
 - (d) Target practice is prohibited except at ranges provided by the Wildlife Resources Agency or the USDA Forest Service. Safety Zones may be designated and posted by the area manager. Safety Zones are defined as an area of protection which may have restricted hunting activities around dwellings, recreation areas, firing and archery ranges and roads.
- (3) Dogs.
- (a) Use or possession of dogs is prohibited on wildlife management areas or on other Wildlife Resources Agency controlled lands except when authorized by Commission proclamation or regulation.
 - (b) These rules and regulations shall not be construed to conflict with rules and regulations promulgated by any State or Federal Agency with whom the Wildlife Resources Agency manages any area under terms of a cooperative agreement.
 - (c) Any dog found on Wildlife Resources Agency controlled lands shall be impounded and disposed of according to the procedures outlined in T.C.A. §70-4-118.
- (4) Camping And Picnicking.
- (a) Camping is specifically prohibited at State fish hatcheries. Visiting prohibited between 5 p.m. and 8 a.m.
 - (b) Overnight camping may be permitted on designated areas by permission from the Area Manager, except on non-Agency lands where legally promulgated rules specify otherwise. Such camping is subject to the limitations prescribed in the permit, and shall not exceed 3 weeks in length from the beginning to the end of the camping stay.
 - (c) Houseboats and floats are prohibited from mooring and anchoring overnight along the shorelines of State property on Norris Lake.
 - (d) Picnicking is permitted on designated areas.
- (5) Miscellaneous.
- (a) Other use of wildlife management areas and other Wildlife Resources Agency controlled lands is subject to approval of the Executive Director, Regional Manager, Park Superintendent, State Forest Supervisor, National Forest Supervisor, or Forest Service National Recreation Area Supervisor.
 - (b) All motorized vehicles must be muffler equipped to suppress noise and be spark arrestor equipped to prevent fires. Operation of motorized vehicles is confined to roads and trails not designated as closed or as authorized by the Area Manager. On LBL, motorized vehicles are prohibited on all roads and trails not designated as open by signs and/or other appropriate methods. Driving off road into woods, fields, or on foot trails or utility right-of-way is prohibited on all agency owned wildlife management areas. Motorized vehicles may be prohibited on any agency owned wildlife management area if deemed necessary to protect wildlife, vegetation, and/or properties.
 - (c) Vehicles shall not be parked in any manner that will block or deny access to any road or trail.

- (d) In addition to the above, the following apply to the use of trail bikes, mini-bikes, and other off-road-vehicles:
1. Off-road vehicles (ORVs) are restricted to use on roads open to other motorized traffic, except, where prohibited by state or federal statute, and designated trails only. Roads shall be posted if closed.
 2. ORVs may be prohibited from certain high use areas and at certain times when there is a threat to public safety or wildlife as indicated by signs.
 3. Driving off roads and designated trails into woods, fields, and utility rights of way is prohibited unless otherwise provided.
 4. ORVs may be operated during daylight hours and at other times when participating in authorized activities.
 5. ORVs must be equipped with properly functioning mufflers and spark arresters.
 6. ORVS MAY NOT BE OPERATED IN A RECKLESS OR OTHERWISE UNSAFE MANNER. NO HARASSMENT OR DISTURBANCE OF PEOPLE OR WILDLIFE IS PERMITTED.
 7. All incidents resulting in the injury to persons or damage to property must be reported by the person or persons involved as soon as possible to the District Forester, Area Manager, or Park Superintendent. This report does not relieve persons from the responsibility of making any other accident reports which may be required under State law.
- (e) The use of wire, nails or other metal materials is expressly prohibited in the building or attaching of climbing devices or hunting stands on or in trees. Hunting is prohibited from any stand attached to a tree with these materials. Portable climbing devices or stands that do not injure trees are excepted from this rule.
- (f) Acts of disorderly, obnoxious, or boisterous conduct, including acts that interfere with the orderly process of hunting, are prohibited. Violators shall be removed from the area and/or prosecuted. When an individual is convicted for a flagrant violation(s) or repeated violations of regulations governing management areas, the Executive Director shall at his discretion bar said individual from all management areas for a period of up to two years of date of written notification.
- (g) No person shall deface, damage, destroy or remove any equipment, structure, trees, fruits, nuts, crops, or other plants, dirt, gravel or sod from any wildlife management area or other Wildlife Resources Agency controlled lands without specific authorization.
- (h) No garbage, rubbish, litter or any refuse, sewage or other material which would pollute said area or waters, or render them unsightly or unsanitary shall be thrown, left or deposited on the area.
- (i) No warming, camping or any type fire shall be allowed except at designated camping areas. Anyone causing a forest fire shall be held liable for the cost of suppression.
- (j) The following apply to the use of saddle and pack animals on Wildlife Management Areas:
1. Horses and other saddle and pack animals are permitted on roads and trails open to motorized traffic and other trails or routes established for their use.

2. Riding off roads into woods, fields, or on foot trails is prohibited unless otherwise provided.
 3. Horses and other saddle and pack animals may be prohibited from certain high use areas such as campgrounds, picnic areas, main-traveled roads, etc. as indicated by signs.
- (a) The following shall apply to abandoned and unattended property:
1. Abandonment of any vehicle or other personal property is prohibited and such property may be impounded by the Area Manager or an authorized person.
 2. Leaving any vehicle or other personal property unattended for longer than 24 hours, without prior permission of the Area manager or other authorized person, is prohibited and any property so left may be impounded by the Area Manager or an authorized person, and may be disposed of according to state procedures. In the event unattended property interferes with a safe and orderly management of the area, it may be impounded at any time.

Authority: T.C.A. §70-1-206.

1660-1-14-.14 HUNTING AND MISCELLANEOUS USES OF PUBLIC HUNTING AREAS.

- (1) PERMITS (ON PUBLIC HUNTING AREAS WHERE REQUIRED, AS PER AGREEMENT)
 - (a) Before any person may hunt on a public Hunting Area he must possess a valid and appropriate hunt permit purchased from a Public Hunting Area permit agent. This permit must be available for inspection while on the area.
 - (b) A public hunting area permit is subject to cancellation if the permittee violates any of the rules and regulations of the area.
- (2) General
 - (a) Use, possession or transportation of firearms, bows and arrows or other weapons is expressly prohibited except during times when they may be legally used for hunting. Persons possessing a firearm on Public Hunting Lands are required to have a valid Public Hunting Area permit.
- (3) Safety Rules
 - (a) The hunter's permit is subject to cancellation if he is found to be careless with firearms and no permit fee refund will be made.
 - (b) No hunt participant shall be in possession of any alcoholic beverage, narcotic drug barbiturate, or marijuana while hunting within the Public Hunting Area. No person may be under the influence of these substances while hunting on a Public Hunting Area.
 - (c) Firearms loaded with ammunition in either the chamber or magazine may not be transported in or on motorized vehicles. Except that, muzzleloaders may be transported in a loaded condition if the percussion cap or primer is removed from the nipple or tube. Flintlock muzzleloaders must have the priming powder removed from the pan, the frizzen open and the vent plugged.

- (d) Hunting is specifically prohibited inside safety zones on all public hunting areas.
- (4) Miscellaneous
- (a) All motorized vehicles must be muffler equipped to suppress noise and be spark arrestor equipped to prevent fires. Operation of motorized vehicles is confined to roads not designated as closed and driving off road into woods fields, strip mines, foot trails and utility rights-of-way is prohibited.
 - (b) Vehicles shall not be parked in any manner which will block or deny access to any road or trail.
 - (c) The use of wire, nails or other metal materials is prohibited in the building or attaching or attaching of climbing devices or hunting stands on or in trees. Hunting is prohibited from any stand attached to a tree with these materials. Portable climbing devices and stands that do not injure trees are excepted from this rule.
 - (d) No person shall deface, damage, destroy or remove any equipment, structure, sign, trees, plants, dirt or gravel from any Public Hunting Area without proper authorization.
 - (e) No garbage, refuse, litter or sewage shall be left or deposited on a Public Hunting Area.
 - (f) The use of buckshot for hunting and/or taking of deer and turkey is specifically prohibited.
 - (g) The use of ATVs (4 wheelers, 3 wheelers, dirt bikes, etc.) or any unlicensed motorized vehicle is prohibited on the Willamette Public Hunting Area.
 - (h) Open fires are prohibited on all public hunting areas.
 - (i) Other miscellaneous uses of public hunting areas shall be in accordance with posted notices and/or as indicated on the hunt permit.

Authority: T.C.A. §70-1-206.

The notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of March, 2001. (03-26)

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WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 01-1 ESTABLISHING YUCHI REFUGE AT SMITHBEND

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-1-302 and 70-5-101 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following area to be known as Yuchi Refuge.

Those lands and waters west of the Tennessee River in Rhea County, being part of the area known as Smith Bend and purchased pursuant to the Wetlands Acquisition Act as posted. A more complete description may be found on file in the Tennessee Wildlife Resources Agency office, Nashville, Tennessee.

Proclamation No. 01-1 received and recorded this 8th day of March, 2001. (03-02)

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

**PROCLAMATION 01-2
AMENDING PROCLAMATION 00-24
SPORT FISHING PROCLAMATION**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-1-206, and 70-4-119 thereof, the Tennessee Wildlife Resources Commission proclaims the following amendments to Section I. ENDANGERED SPECIES, GENERAL SEASONS, CREEL AND POSSESSION LIMITS, AND MINIMUM LENGTHS, Section VI. DEPARTMENT OF ENVIRONMENT AND CONSERVATION MANAGED LAKES, Section X. GIGGING, Section XI. GRABBLING, GRAB HOOKING, SNAGGING, TUBBING, ARCHERY, SPEAR-GUN FISHING, DIPPING, AND CAST NETTING, Section XII. SLAT BASKETS, and Section XIII. TROT LINES, LIMBLINES, AND JUGS of Proclamation 00-24, SPORT FISHING PROCLAMATION, dated the 25th day of October, 2000.

SECTION I. ENDANGERED SPECIES, GENERAL SEASONS, CREEL AND POSSESSION LIMITS, AND MINIMUM LENGTHS

Amend the twenty-second sentence of Item B, under Species (Smallmouth bass from Norris) by replacing the “14-18” slot” with “18”, and deleting the twenty third sentence which reads “*Only one smallmouth bass can be over 18”.

SECTION VI. DEPARTMENT OF ENVIRONMENT AND CONSERVATION MANAGED LAKES

Amend the items under “Black bass from:” to add:

- Poplar Tree Lake, Meeman-Shelby Forest State Park, 14”-18” PLR (slot limit)
- Travis McNatt Lake, Big Hill Pond State Park, daily creel limit of 10 (no size limit)

SECTION X. GIGGING

Amend Item C.5. “Paddlefish may be harvested from March 1-March 15.” by deleting this sentence in its entirety. Amend Item E.1. to read “Non-game species-no limit (except that no paddlefish may be harvested).”

SECTION XI. GRABBLING, GRAB HOOKING, SNAGGING, TUBBING, ARCHERY, SPEAR-GUN FISHING, DIPPING, AND CAST NETTING

Amend Item C.1. to read “Non-game species-no limit (except that paddlefish may only be harvested from Cherokee Reservoir from March 1 through March 15, with a daily creel limit of 1 fish equal to or larger than 30 inches).”

SECTION XII. SLAT BASKETS

Amend Item 4. to read “Only non-game fish may be taken. No limit (except that no paddlefish may be harvested).”

SECTION XIII. TROT LINES, LIMBLINES, AND JUGS

Amend Item E. to read "Creel limit on game fish same as statewide; non-game species-no limit (except that no paddlefish may be harvested)."

Proclamation 01-2 received and recorded this 8th day of March, 2001. (03-03)

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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 March 1, 2001 and ending March 30, 2001.


RILEY C. DARNELL
Secretary of State

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