

TAAAR



February 15, 2002
Volume 28, Number 2

RILEY C. DARNELL

Secretary of State

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

DEPARTMENT OF STATE NONDISCRIMINATION POLICY STATEMENT

Pursuant to its policy of nondiscrimination, the Department of State does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, disability, or military service in its policies, or in the admission or access to, or treatment or employment in, its programs, services, or activities.

Equal Employment Opportunity/Affirmative Action inquiries or complaints should be directed to the Department of State, Bard G. Fisher, EEO/AA Coordinator, 7th Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN, 37243-0311 or call (615) 741-7411, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299. ADA inquiries or complaints should be directed to Mr. Fisher at the above mentioned location.

PUBLIC INSPECTION OF DOCUMENTS

A certified copy of each document filed with the Department of State, Division of Publications is available for public inspection from 8 A.M. to 4:30 P.M., Monday through Friday. Copies of documents may be made at a cost of 25 cents per page and \$2 for the certification page, payable in advance if requested. The Division of Publications is located on the Eighth Floor, Snodgrass Tower, 312 Eighth Avenue North, Nashville, TN 37243 - 0310. Telephone inquiries may be made by calling (615) 741-0522, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299. Individuals with disabilities who wish to inspect these filings should contact the Division of Publications to discuss any auxiliary aids or services needed to facilitate such inspection. Such contact may be made in person, by writing, telephonically or otherwise and should be made at least ten (10) days in advance of the date such party intends to make such inspection to allow time for the Division of Publications to provide such aid or service.

Department of State, Authorization No. 305084, 385 copies, February 2002. This public document was promulgated at a cost of \$ \$5.96 per copy.

PREFACE

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

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

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

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

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

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

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

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

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

Reproduction - There are no restrictions on the reproduction of official documents appearing in the Tennessee Administrative Register.

Blank

pg. iv

TABLE OF CONTENTS

ANNOUNCEMENTS

Correction, Department of
 Notice of Meeting to Select News Media Representatives to Witness Execution of a sentence of Death 1

Financial Institutions, Department of
 Announcement of Formula Rate of Interest 2
 Announcement of Maximum Effective Rate of Interest 2

Government Operations Committees
 Announcement of Public Hearings 2

Health Facilities Commission
 Notice of Beginning of Review Cycle 12

EMERGENCY RULES

Emergency Rules Now in Effect 15

Treasury, Department of 15

PROPOSED RULES

Labor and Workforce Development, Department of 23

Regents, Board of 25

Transportation, Department of 87

PUBLIC NECESSITY RULES

Public Necessity Rules Now in Effect 21

Transportation, Department of 98

RULEMAKING HEARINGS

Children's Services, Department of 113

Commerce and Insurance, Department of 116

Dentistry, Board of 117

Environment and Conservation, Department of 120

Finance and Administration, Department of 123

Health, Department of 124

Mental Health and Developmental Disabilities, Department of 152

Optometry, Board of 154

Transportation, Department of 155

Wildlife Resource Commission 169

CERTIFICATION 171

CHANGE OF ADDRESS FORM 173

ORDER FORM 175

Blank

pg. vi

ANNOUNCEMENTS

DEPARTMENT OF CORRECTION – 0420 ADULT SERVICES DIVISION

NOTICE OF MEETING TO SELECT NEWS MEDIA REPRESENTATIVES TO WITNESS EXECUTION OF A SENTENCE OF DEATH

This is to provide official notification that in accordance with Tennessee law, seven news media representatives to witness the execution of a sentence of death will be selected by the Tennessee Department of Correction during an open drawing to be held at 10:00 a.m. (CDT) on March 19, 2002. The drawing will be conducted at the administration building at Riverbend Maximum Security Institution, 7475 Cockrill Bend Industrial Road, Nashville, Tennessee.

The drawing will be conducted in accordance with the Rules of the Tennessee Department of Correction, Adult Services Division, Chapter 0420-3-4. To participate in the drawing, Tennessee news media representatives must submit an application on a form provided by the department. Applications must be received at Riverbend Maximum Security Institution by 4:00 p.m. (CDT) on March 15, 2002. Application forms and a copy of the rule may be obtained upon request by mail or fax from Pam Ryan, Administrative Assistant to the Warden, Riverbend Maximum Security Institution, (615) 350-3400 (fax). The department will accept only one application from each news media agency. A person may be named as a new media agency representative on only one application.

The March 19 drawing is for the scheduled execution of Abu-Ali Abdur'Rahman, convicted in 1987 for an offense committed in Davidson County, Tennessee. The execution is currently scheduled for April 10, 2002.

Any individuals with disabilities who wish to participate in these proceedings should contact the Riverbend Maximum Security Institution 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 drawing to allow time for the department of correction to determine how it may reasonably provide such aid or service. Initial contact may be made with Pam Ryan at 7475 Cockrill Bend Industrial Road, Nashville, Tennessee and (615) 350-3100, ext. 3116.

For additional information, you may contact Steve Hayes, Public Information Officer, (615) 741-1000, ext. 4006.

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 8.75 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 March 2002 is 9.42 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 5.42 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 January 2002. 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
01-01	Jan 4, 2002	0880 Bd of Medical Examiners	Rulemaking Hearing Rules	Amendment	<i>Chapter 0880-2 General Rules and Regulations Governing the Practice of Medicine</i> 0880-2-.07 Application Review, Approval, Denial, Interviews and Conditioned, Restricted and Locum Tenens Licensure	Robert J. Kraemer, Jr., Office of General Counsel 26th Fl Snodgrass-TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Mar 20, 2002
01-02	Jan 4, 2002	1045 Bd of Optometry	Rulemaking Hearing Rules	Amendment	<i>Chapter 1045-2 General Rules Governing the Practice of Optometry</i> 1045-2-.05 Continuing Education 1045-2-.07 Diagnostic and Therapeutic Certification 1045-2-.11 Scope of Practice	Glen Watson Office of General Counsel 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	Mar 20, 2002
01-03	Jan 9, 2002	0620 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-13-12</i> 1200-13-12-.05 Enrollee Cost Sharing	George Woods Bureau of TennCare 729 Church St Nashville, TN 37247-6501 (615) 741-0145	Mar 25, 2002
01-04	Jan 9, 2002	0620 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-13-1</i> 1200-13-1-.06 Provider Reimbursement	George Woods Bureau of TennCare 729 Church St Nashville, TN 37247-6501 (615) 741-0145	Mar 25, 2002
01-05	Jan11, 2002	0800 Labor and Workforce Development Occupational Safety and Health	Proposed Rules	New Rules	<i>Chapter 0800-1-1 Occupational Safety and Health Standards for General Industry</i> 0800-1-1-.01 Purpose and Scope 0800-1-1-.02 Definitions 0800-1-1-.03 Petitions for the Issuance, Amendment, or Repeal of a Standard 0800-1-1-.04 Amendments to this Chapter 0800-1-1-.05 Applicability of Standards 0800-1-1-.06 Adoption and Citation of Federal Standards 0800-1-1-.07 Exceptions to Adoption of Federal Standards in 29 CFR Part 1910 <i>Chapter 0800-1-6 Occupational Safety and Health Standards for Construction</i> 0800-1-6-.01 Definition	Michael M. Maenza Labor and Workforce Development Occupational Safety and Health 3rd Fl Andrew Johnson Twr 710 James Robertson Pkwy Nashville, TN 37243-0659 (615) 741-7036	May 31, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-05, cont.				Repeals	0800-1-6-.02 Adoption and Citation of 0800-1-6-.03 Exceptions to Adoption of Federal Standards in 29 CFR Part 1926 <i>Chapter 0800-1-7 Occupational Safety and Health Standards for Agriculture</i> 0800-1-7-.01 Adoption and Citation of Federal Standards 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 <i>Chapter 0800-1-1 Occupational Safety and Health Standards for General Industry Chapter 0800-1-6 Occupational Safety and Health Standards for Construction Chapter 0800-1-7 Occupational Safety and Health Standards for Agriculture</i>		
01-06	Jan 11, 2002	0240 Bd of Regents State University and Community College System of TN Austin Peay State University	Proposed Rules	Amendments	<i>Chapter 0240-3-1 Student Disciplinary Rules</i> 0240-3-1-.01 Institution Policy Statement 0240-3-1-.02 Disciplinary Offenses 0240-3-1-.03 Academic and Classroom Misconduct 0240-3-1-.04 Disciplinary Sanctions 0240-3-1-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-07	Jan 11, 2002	0240 Bd of Regents State University and Community College East TN State University	Proposed Rules	Amendments	<i>Chapter 0240-3-2 Student Disciplinary Rules</i> 0240-3-2-.02 Disciplinary Offenses 0240-3-2-.04 Disciplinary Sanctions 0240-3-2-.05 Disciplinary Procedures 0240-3-2-.06 Traffic and Parking Regulations <i>Chapter 0240-4-2 Student Housing Rules</i> 0240-4-2-.01 Eligibility 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions 0240-4-2-.03 Resident Responsibilities 0240-4-2-.04 Visitation Policy 0240-4-2-.05 Contract Term and Conditions 0240-4-2-.06 Reservations (Deposits, Cancellation and Refund	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-07, cont.					0240-4-2-.07 Policies) Special Regulations Applicable to Buccaneer Village (Married Student Housing) 0240-4-2-.08 Miscellaneous		
01-08	Jan 11, 2002	0240 Bd of Regents State University and Community College University of Memphis	Proposed Rules	Amendments	<i>Chapter 0240-3-3</i> <i>Student Disciplinary Rules</i> 0240-3-3-.04 Disciplinary Procedures 0240-3-3-.06 Judicial Procedures 0240-3-3-.09 Traffic and Parking Regulations	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-09	Jan 11, 2002	0240 Bd of Regents State University and Community College Middle TN State University	Proposed Rules	Amendments	<i>Chapter 0240-3-4</i> <i>Student Disciplinary Rules</i> 0240-3-4-.02 Disciplinary Offenses 0240-3-4-.03 Disciplinary Sanctions 0240-3-4-.04 Disciplinary Procedures 0240-3-4-.06 Traffic and Parking Regulations 0240-3-4-.07 Registration of Motor Vehicles <i>Chapter 0240-4-4</i> <i>Student Housing Rules</i> 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions 0240-4-4-.05 Visitation Policy	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-10	Jan 11, 2002	0240 Bd of Regents State University and Community College TN State University	Proposed Rules	Amendments	<i>Chapter 0240-3-5</i> <i>Student Disciplinary Rules</i> 0240-3-5-.02 Disciplinary Offenses 0240-3-5-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-11	Jan 11, 2002	0240 Bd of Regents State University and Community College Chattanooga State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-7</i> <i>Student Disciplinary Rules</i> 0240-3-7-.04 Student Code of Conduct 0240-3-7-.07 Sanctions	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-12	Jan 11, 2002	0240 Bd of Regents State University and Community College TN Technological University	Proposed Rules	New Rule Amendments	<i>Chapter 0240-3-6 Student Disciplinary Rules</i> 0240-3-6-.09 Sexual Assault Policy 0240-3-6-.02 Disciplinary Offenses 0240-3-6-.05 Disciplinary Procedures <i>Chapter 0240-4-6 Student Housing Rules</i> 0240-4-6-.01 Eligibility 0240-4-6-.03 Resident Responsibilities 0240-4-6-.04 Visitation Policy 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) 0240-4-6-.07 Miscellaneous	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-13	Jan 11, 2002	0240 Bd of Regents State University and Community College Cleveland State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-8 Student Disciplinary Rules</i> 0240-3-8-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-14	Jan 11, 2002	0240 Bd of Regents State University and Community College Columbia State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-9 Student Disciplinary Rules</i> 0240-3-9-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-15	Jan 11, 2002	0240 Bd of Regents State University and Community College Dyersburg State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-10 Student Disciplinary Rules</i> 0240-3-10-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-16	Jan 11, 2002	0240 Bd of Regents State University and Community College Jackson	Proposed Rules	Amendments	<i>Chapter 0240-3-11 Student Disciplinary Rules</i> 0240-3-11-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-16, cont.		State					
01-17	Jan 11, 2002	0240 Bd of Regents State University and Community College Roane State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-13 Student Disciplinary Rules</i> 0240-3-13-.02 Disciplinary Offenses 0240-3-13-.04 Disciplinary Sanctions 0240-3-13-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-18	Jan 11, 2002	0240 Bd of Regents State University and Community College Southwest TN Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-14 Student Disciplinary Rules</i> 0240-3-14-.03 Classroom Misconduct 0240-3-14-.04 Disciplinary Procedures 0240-3-14-.05 Disciplinary Sanctions 0240-3-14-.06 Traffic and Parking Regulations	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-19	Jan 11, 2002	0240 Bd of Regents State University and Community College Volunteer State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-15 Student Disciplinary Rules</i> 0240-3-15-.02 Disciplinary Offenses 0240-3-15-.05 Disciplinary Procedures 0240-3-15-.06 Traffic and Parking Regulations	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-20	Jan 11, 2002	0240 Bd of Regents State University and Community College Walters State Community College	Proposed Rules	Amendment	<i>Chapter 0240-3-16 Student Disciplinary Rules</i> 0240-3-16-.01 Institution Policy Statement 0240-3-16-.02 Disciplinary Offenses 0240-3-16-.04 Disciplinary Sanctions	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-21	Jan 11, 2002	0240 Bd of Regents State University and Community College Nashville State Technical Institute	Proposed Rules	Amendments	<i>Chapter 0240-3-17 Student Disciplinary Rules</i> 0240-3-17-.02 Disciplinary Offenses 0240-3-17-.04 Disciplinary Sanctions 0240-3-17-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002

ANNOUNCEMENTS

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-22	Jan 11, 2002	0240 Bd of Regents State University and Community College State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-18 Student Disciplinary Rules</i> 0240-3-18-.05 Disciplinary Procedures 0240-3-18-.06 Traffic and Parking Regulations	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-23	Jan 11, 2002	0240 Bd of Regents State University and Community College Neast State Technical Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-20 Student Disciplinary Rules</i> 0240-3-20-.02 Disciplinary Offenses 0240-3-20-.04 Disciplinary Sanctions 0240-3-20-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-24	Jan 11, 2002	0240 Bd of Regents State University and Community College TN Technology Centers	Proposed Rules	Amendments	<i>Chapter 0240-3-21 Student Disciplinary Rules</i> 0240-3-21-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-25	Jan 11, 2002	1200 Health Bureau of Health Licensure and Regulation Division of Emergency Medical Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-12-1 General Rules</i> 1200-12-1-.19 Automated External Defibrillator Programs	Jerrold R. Daniels, Health Office of the General Counsel 26th Fl TN Twr 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611	April 9, 2002
01-26	Jan 11, 2002	1680 Transportation Central Services Division	Proposed Rules	Amendments	<i>Chapter 1680-2-2 Overweight and Overdimensional Movements on TN Highways</i> 1680-2-2-.14 Conditions for Permitting Movement of Site-Built Houses 1680-2-2-.23 Bond or Proof of Solvency Requirements 1680-2-2-.24 Fees	John H. Reinbold Transportation Suite 700, James K. Polk Bldg 505 Deaderick St Nashville, TN 37243-0332 (615) 741-2941	May 31, 2002
01-27	Jan 11, 2002	1680 Transportation Maintenance	Proposed Rules	Amendments	<i>Chapter 1680-9-1 Specific Service Signs (Logo Sign Program)</i>	John H. Reinbold Transportation Suite 700, James K. Polk	May 31, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-27, cont.		Division			1680-9-1-.01 Preface 1680-9-1-.04 Criteria for the Erection of 1680-9-1-.05 Services Permitted 1680-9-1-.06 Measurements 1680-9-1-.13 Appendix	Bldg 505 Deaderick St Nashville, TN 37243-0332 (615) 741-2941	
01-29	Jan 15, 2002	1700 Treasury TN Baccalaureate Education System Trust Bd	Emergency Rules	Amendments	<i>Chapter 1700-5-1</i> <i>TN Baccalaureate Education System Trust</i> 1700-5-1-.01 In General 1700-5-1-.09 Scholarship Recipients 1700-5-1-.10 Contract Termination and Refunds 1700-5-1-.11 Plan Termination 1700-5-1-.17 Payments to Beneficiary	Mary Krause Treasury Department 10th Fl Andrew Jackson Bldg Nashville, TN 37243-0230 (615) 741-7063	Jan 15, 2002 through June 29, 2002
01-30	Jan 15, 2002	1700 Treasury TN Baccalaureate Education System Trust Bd	Emergency Rules	Amendments	<i>Chapter 1700-5-2</i> <i>TN Baccalaureate Education System Trust</i> <i>Educational Savings Plan</i> 1700-5-2-.01 In General. 1700-5-2-.04 Beneficiary Accounts. 1700-5-2-.08 Payments to Beneficiary. 1700-5-2-.10 Scholarship Recipients. 1700-5-2-.11 Contract Termination and Refunds. 1700-5-2-.12 Plan Termination.	Mary Krause Treasury Department 10th Fl Andrew Jackson Bldg Nashville, TN 37243-0230 (615) 741-7063	Jan 15, 2002 through June 29, 2002
01-31	Jan 12, 2002	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-3-26</i> <i>Administrative Fees Schedule</i> 1200-3-26-.02 Construction and Annual Emission Fees	Mr. Ron Culberson Division of Air Pollution Control 9th Fl L & C Annex 401 Church St Nashville, TN 37243-1531 (615)532-0561	Mar 30, 2002
01-32	Jan 16, 2002	1680 Transportation Public Transportation, Waterways And Rail Division	Public Necessity Rules	New Rules	<i>Chapter 1680-12-1</i> <i>RailRd Grade Crossing Standards</i> 1680-12-1-.01 Purpose 1680-12-1-.02 Applicability 1680-12-1-.03 Definitions 1680-12-1-.04 Standards 1680-12-1-.05 Procedures for Approvals and Inspections 1680-12-1-.06 Costs of Construction or Conversion 1680-12-1-.07 Fees	John H. Reinbold Transportation Suite 700, James K. Polk Bldg 505 Deaderick St Nashville, TN 37243-0332 (615) 741-2941	Jan 16, 2002 through June 30, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-35	Jan 11, 2002	0240 Bd of Regents State University and Community College Motlow State Community College	Proposed Rules	Amendments	<i>Chapter 0240-3-12</i> <i>Student Disciplinary Rules</i> 0240-3-12-.02 Disciplinary Offenses 0240-3-12-.04 Disciplinary Sanctions 0240-3-12-.05 Disciplinary Procedures	Lisa Karen Atkins 1415 Murfreesboro Rd Suite 350 Nashville, TN 37217 615-366-4438	May 31, 2002
01-36	Jan 23, 2002	1200 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13</i> <i>Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (82-522)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	April 8, 2002
01-37	Jan 23, 2002	1200 Environment and Conservation Division of Superfund	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-1-13</i> <i>Hazardous Substance Remedial Action</i> 1200-1-13-.13 List of Inactive Hazardous Substance Sites (82-526)	Robert L. Powell Division of Superfund 4th Fl Annex, L & C Bldg Nashville, TN 37243-1538 (615)532-0916	April 8, 2002
01-38	Jan 23, 2002	1680 Transportation Maintenance Division	Proposed Rules	Repeal and new rules	<i>Chapter 1680-3-1</i> <i>Manual on Uniform Traffic Control Devices for Streets and Highways</i> 1680-3-1-.01 Applicability 1680-3-1-.02 Adoption of Manual on Uniform Traffic Control Devices, Millennium Edition 1680-3-1-.03 Adoption of Future Revisions to Manual on Uniform Traffic Control Devices, Millennium Edition 1680-3-1-.04 Standard Highway Signs	John H. Reinbold Transportation Suite 700, James K. Polk Bldg 505 Deaderick St Nashville, TN 37243-0332 (615) 741-2941	May 31, 2002
01-39	Jan 23, 2002	1150 Occupational and Physical Therapy Examiners' Committee of Physical Therapy	Rulemaking Hearing Rules	Amendments	<i>Chapter 1150-1</i> <i>General Rules Governing the Practice of Physical Therapy</i> 1150-1-.02 Scope of Practice and Supervision	Tracey Boyers-Heathman, OGC 26th Fl Snodgrass TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	April 8, 2002
01-40	Jan 23, 2002	1020 Examiners for Nursing Home	Rulemaking Hearing Rules	Amendments	<i>Chapter 1020-1</i> <i>General Rules Governing Nursing Home Administrators</i>	Tracey Boyers-Heathman, OGC 26th Fl Snodgrass TN Twr	April 8, 2002

SEQ	FILE DATE	DEPT. & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
01-40, cont.		Administrators			1020-1-.05 Licensure 1020-1-.12 Continuing Education	312 8th Ave N Nashville, TN 37247-0120 615-741-1611	
01-44	Jan 28, 2002,	1200 Health Bureau of Health Services Administration Division of General Environmental Health	Rulemaking Hearing Rules	New Rules	<i>Chapter 1200-23-6</i> <i>Body Piercing</i> 1200-23-6-.01 Definitions 1200-23-6-.02 Prohibited Acts 1200-23-6-.03 Consent and Body Piercing of Minors 1200-23-6-.04 Minimum Standards for Body Piercing Establishments 1200-23-6-.05 Body Piercing Establishment Operation 1200-23-6-.06 Establishment Permitting and Inspection System 1200-23-6-.07 Body Piercing Technician Licensing 1200-23-6-.08 Licensing and Permitting Fees 1200-23-6-.09 Loss of Permit Document 1200-23-6-.10 General Provisions	Jerrold R. Daniels TN Twrs, 26th Fl 312 8th Ave N Nashville, TN 37247-0120 (615) 741-1611	April 13, 2002
01-47	Jan 28, 2002	1050 Osteopathic Examination	Rulemaking Hearing Rules	Amendments	<i>Chapter 1050-2</i> <i>General Rules and Regulations</i> 1050-2-.13 Scope of Practice	Robert J. Kraemer 26th Fl, Snodgrass/TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	April 13, 2002
01-48	Jan 28, 2002	1050 Osteopathic Examination	Rulemaking Hearing Rules	Amendments New Rule	<i>Chapter 1050-2</i> <i>General Rules and Regulations</i> 1050-2-.13 Scope of Practice <i>Chapter 1050-3</i> <i>General Rules and Regulations Governing Utilization of X-Ray Operators in Osteopathic Physicians' Offices</i> 1050-3-.10 Supervision	Robert J. Kraemer 26th Fl, Snodgrass/TN Twr 312 8th Ave N Nashville, TN 37247-0120 615-741-1611	April 13, 2002
01-49	Jan 28, 2002	1660 Wildlife Resources Commission	Rulemaking Hearing Rules	Amendment	<i>Chapter 1660-2-7</i> <i>Rules and Regulations Governing Operations of Vessels</i> 1660-2-7-.11 Special Areas	Sheryl Holtam, Attorney TN Wildlife Resources Agency P.O. Box 40747 Nashville, TN 37204 (615) 781-6606	April 13, 2002

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

Applications will be heard at the March 27, 2002 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 January 1, 2002. 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

Hendersonville Outpatient Diagnostic Center
West side of Andrews Run .2 miles north
of Juncture of Forest Retreat Road and
Glenbrook Way
Hendersonville (Sumner Co.), TN 37075
John Wellborn – (615)—665-2022
CN0111-091

The establishment of an outpatient diagnostic center (ODC), the initiation of magnetic resonance imaging (MRI) services, the acquisition of an MRI scanner as well as computed tomography, radiographic, ultrasound, and mammography imaging equipment. The ODC will be located on the west side of Andrews Run, .20 miles north of its intersection with the juncture of Forest Retreat Road and Glenbrook Way in Hendersonville, Tennessee.
\$ 8,963,736.00

Livingston Regional Hospital
315 Oak Street
Livingston (Overton Co.), TN 38570
John Wellborn – (615)—665-2022
CN0112-094

Increase the hospital's designated swing bed complement from five (5) to fourteen (14) beds and delicense and close the existing eight (8) bed skilled nursing unit.
\$ 15,000.00

NAME AND ADDRESS

DESCRIPTION

East Tennessee Children's Hospital
 2018 Clinch Avenue
 Knoxville (Knox Co.), TN 37916
 Rudy McKinley – (865)—541-8492
 CN0112-095

The expansion and renovation of East Tennessee Children's Hospital located at 2018 Clinch Avenue, Knoxville, Tennessee and an increase of thirty (30) licensed beds from 122 beds to 152 beds.
 \$ 31,670,000.00

National Healthcare of Cleveland, Inc.
 d/b/a Cleveland Community Hospital
 2800 Westside Drive
 Cleveland (Bradley Co.), TN 37312
 Jerry Taylor – (615)—726-1200
 CN0112-096

The acquisition of a 1.5 Tesla MRI and the conversion from a part-time, mobile MRI service to a full-time, fixed MRI service to be located at Cleveland Community Hospital, 2800 Westside Drive, Cleveland, Tennessee.
 \$ 2,305,000.00

Summit Medical Center
 3901 Central Pike
 Hermitage (Davidson Co.), TN 37076
 John Wellborn – (615)—665-2022
 CN0112-097

The initiation of megavoltage radiation therapy and linear accelerator services for outpatients in the Summit Medical Park office building at 3901 Central Pike, Hermitage, Tennessee.
 \$ 4,740,000.00

Blank

pg. 14

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 1340 - Department of Safety - Division of Driver License Issuance - Emergency rules regarding verification of residence and identification for those seeking driver licenses upon initial issuance, chapter 1340-1-13 Classified and Commercial Driver Licenses, 11 T.A.R. (November 15, 2001) - Effective October 31, 2001 through April 14, 2002. (10-22)
- 0940 - Department of Mental Health and Developmental Disabilities - Office of Licensure - Emergency rule covering mental health and developmental disability two- and three-bed residential facilities accommodating individuals who cannot evacuate the residence without physical assistance - chapter 0940 Life Safety Licensure Rules, 12 T.A.R. (December 2001) - Effective November 21, 2001 through May 5, 2002. (11-29)

TREASURY DEPARTMENT - 1700 **TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST BOARD**

CHAPTER 1700-5-1 **TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST**

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to T.C.A. § 4-5-208, the Tennessee Baccalaureate Education System Trust Board is promulgating emergency rules to bring the Tennessee Baccalaureate Education System Trust (BEST) program in compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001. This Act made certain amendments to qualified tuition programs described in Section 529 of the Internal Revenue Code. Among the changes was the repeal of the requirements that a Section 529 Program impose a more than de minimis penalty on any refund of earnings not used for qualified higher education expenses of the beneficiary. In lieu of the penalty, the Act requires taxpayers to pay a 10% tax to the Internal Revenue Service for such withdrawals. This becomes effective for taxable years beginning January 1, 2002.

The Board has made a finding that there is an emergency creating a danger to the public welfare that, absent an emergency rule, taxpayers who take refunds as permitted in the rules will be penalized twice until permanent rules are promulgated by the Board. The Board would be required to impose a 10% penalty on the withdrawal in addition to the 10% tax. The imposition of the additional penalty would be injurious to Tennessee citizens who have purchased tuition contracts from the BEST program.

The Economic Growth and Tax Relief Reconciliation Act of 2001 also expanded the definition of qualified higher education expenses to cover expenses for special needs services in the case of a special needs student which are incurred in connection with the enrollment or attendance of the special needs student at the institution of higher education where the student is enrolled. These emergency rules would bring the BEST program in compliance with this expanded definition. The Board has made a finding that, unless these emergency rules are adopted, a special needs student will not be permitted to use his or her college funds accumulated in the BEST program to pay for special needs services made necessary for his or her enrollment or attendance at an institution of higher education until permanent rules are promulgated by the Board. Unless the student is able to pay for the special needs services through means other than the BEST program, the student may not be able to attend college.

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

The text of the proposed rule amendments is as follows:

AMENDMENTS

1700-5-1-.01 In General is amended by deleting Subparagraph (2)(m) in its entirety and by substituting instead the following:

- (m) “Other educational costs” means fees and the costs of books, supplies and equipment required for the enrollment or attendance of the beneficiary at the institution of higher education where the beneficiary is enrolled. “Other educational costs” also means the costs of room and board, as defined in Rule 1700-5-1-.01(2)(s) below, incurred while the beneficiary is enrolled in an institution of higher education on at least a half-time basis and expenses for special needs services in the case of a special needs beneficiary which are incurred in connection with the enrollment or attendance of the special needs beneficiary at the institution of higher education where the beneficiary is enrolled.

Authority: T.C.A. §§49-7-805(16), 49-7-802(6), 49-7-803, 49-7-805(14) and 49-7-807.

1700-5-1-.01 In General is amended by deleting Subparagraph (2)(n) in its entirety and by substituting instead the following:

- (n) “Permanent disability” means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to have a permanent disability unless the individual furnishes proof of the existence thereof from a health care professional in such form and manner as the Board may require. Any finding of a permanent disability must be approved by the Board.

Authority: T.C.A. §§49-7-805(16), 49-7-809 and 49-7-811.

1700-5-1-.09 Scholarship Recipients is amended by deleting the first sentence of Paragraph (1) in its entirety and by substituting instead the following:

- (1) If a beneficiary is the recipient of a scholarship, allowance or payment described in Section 25A(g)(2) of the Internal Revenue Code that the Board determines cannot be converted into money by the beneficiary, the Board will upon the request of the refund recipient and upon being furnished information about the scholarship, allowance or payment:

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-811(d).

1700-5-1-.09 Scholarship Recipients is amended by deleting Subparagraph (1)(a) in its entirety and by substituting instead the following:

- (a) Refund.
 1. Pay a refund to the refund recipient in an amount equal to the value of the tuition units that are not needed to cover tuition or other educational costs on account of the scholarship, allowance or payment and which would have otherwise been paid during the academic term to the institution of higher education at which the beneficiary is enrolled.
 2. If the scholarship, allowance or payment has a duration that extends beyond one (1) academic term, the refund recipient may request a refund in advance of the scholarship payment. The amount of the refund payable to the refund recipient will be equal to (i) the total purchase price of all the tuition units in the beneficiary's account that are not needed to cover the future tuition or other educational costs on account of the scholarship, allowance or payment, (ii) plus one hundred percent (100%) of the difference between said purchase price and one percent (1%) of the weighted average tuition in the academic year the refund is made, multiplied by the number of tuition units in the beneficiary's account that are not needed to cover the future tuition or other educational costs on account of the scholarship, allowance or payment, (iii) minus any termination fee charged by the Board pursuant to Rule 1700-5-1-.13 below.

Authority: T.C.A. §§49-7-805(16), 49-7-805(10), 49-7-805(14) and 49-7-811(d).

1700-5-1-.10 Contract Termination and Refunds is amended by deleting from Subparagraph (2)(b) the words and figures "ninety percent (90%)" and by substituting instead the words and figures "one hundred percent (100%)" so that, as amended, the Subparagraph shall read:

- (a) Voluntary Reasons. In the event a contract is terminated under any of the conditions described in Subparagraphs (1)(b) - (1)(e) above, the amount of the refund paid to the refund recipient shall be equal to: (i) the total purchase price of all tuition units-purchased and not used, (ii) plus one hundred percent (100%) of the difference between said purchase price and one percent (1%) of the weighted average tuition in the academic year the contract is terminated, multiplied by the number of tuition units purchased and not used, (iii) minus any termination fee.

Authority: T.C.A. §§49-7-805(16), 49-7-805(10), 49-7-805(14) and 49-7-811.

1700-5-1-.11 Plan Termination is amended by deleting from Paragraph (1) the punctuation, words and figures ", minus any applicable penalty required under Section 529 of the Internal Revenue Code or the regulations promulgated thereunder" so that, as amended, Paragraph (1) shall read:

- (1) If it is determined by the Board that the educational services plan is, for any reason, financially unfeasible, or is not beneficial to the citizens of Tennessee or to the State itself, then the Board, pursuant to T.C.A. § 49-7-823, may terminate the contracts. Subject to Rule 1700-5-1-.12 below, the amount of the refund to which the refund recipient is entitled shall be the refund provided for in Paragraph (2)(a) of Rule 1700-5-1-.10.

Authority: T.C.A. §§49-7-805(16), 49-7-823 and 49-7-824.

1700-5-1-.17 Payments to Beneficiary is amended by deleting Paragraph (1) in its entirety and by substituting instead the following:

- (1) Reimbursement of Costs Paid.
 - (a) Written Request. If the beneficiary has paid tuition or other educational costs required for the enrollment or attendance of the beneficiary at an institution of higher education, then the beneficiary may make a written request to the Board for reimbursement of the amount so paid. The request must contain a certification from the beneficiary that the amount requested was actually used to pay for his or her tuition or other educational costs. Third party documentation to substantiate the request shall not be required unless otherwise provided for in Section 529 of the Internal Revenue Code or the regulations promulgated thereunder.
 - (a) Amount and Timing of Payment. Any reimbursement made to a beneficiary under this Subparagraph will equal the amount requested, not to exceed the dollar value of the tuition units in the beneficiary's account. The reimbursement will be paid to the beneficiary within sixty (60) days of receipt by the Board of the request required in Subparagraph (1)(a) of this Rule.

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-809(b).

1700-5-1-.17 Payments to Beneficiary is amended by deleting Paragraph (2) in its entirety and by substituting instead the following:

- (1) Advance Payments.
 - (a) Written Request. If the beneficiary has been accepted for enrollment in an institution of higher education and intends to use tuition units in the account for the payment of tuition or other educational costs required for the attendance of the beneficiary at the institution, then the beneficiary may make a written request to the Board for a distribution to be made directly to the beneficiary for the payment of such costs. The request must contain a certification from the beneficiary that the distribution will be expended solely for his or her tuition or other educational costs.
 - (b) Amount and Timing of Payment. Within sixty (60) days of receipt of the request, the Board will pay to the beneficiary an amount equal to the funds requested, not to exceed the dollar value of the tuition units in beneficiary's account.

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-809(b).

The emergency rules set out herein were properly filed in the Department of State on the 15th day of January, 2002, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the day of 29th day of June, 2002. (01-29)

TREASURY DEPARTMENT - 1700
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST BOARD

CHAPTER 1700-5-2
TENNESSEE BACCALAUREATE EDUCATION SYSTEM TRUST
EDUCATIONAL SAVINGS PLAN

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to T.C.A. § 4-5-208, the Tennessee Baccalaureate Education System Trust Board is promulgating emergency rules to bring the Tennessee Baccalaureate Education System Trust (BEST) program in compliance with the Economic Growth and Tax Relief Reconciliation Act of 2001. This Act made certain amendments to qualified tuition programs described in Section 529 of the Internal Revenue Code. Among the changes was the repeal of the requirements that a Section 529 Program impose a more than de minimis penalty on any refund of earnings not used for qualified higher education expenses of the beneficiary. In lieu of the penalty, the Act requires taxpayers to pay a 10% tax to the Internal Revenue Service for such withdrawals. This becomes effective for taxable years beginning January 1, 2002.

The Board has made a finding that there is an emergency creating a danger to the public welfare that, absent an emergency rule, taxpayers who take refunds as permitted in the rules will be penalized twice until permanent rules are promulgated by the Board. The Board would be required to impose a 10% penalty on the withdrawal in addition to the 10% tax. The imposition of the additional penalty would be injurious to Tennessee citizens who have purchased tuition contracts from the BEST program.

The Economic Growth and Tax Relief Reconciliation Act of 2001 also expanded the definition of qualified higher education expenses to cover expenses for special needs services in the case of a special needs student which are incurred in connection with the enrollment or attendance of the special needs student at the institution of higher education where the student is enrolled. These emergency rules would bring the BEST program in compliance with this expanded definition. The Board has made a finding that, unless these emergency rules are adopted, a special needs student will not be permitted to use his or her college funds accumulated in the BEST program to pay for special needs services made necessary for his or her enrollment or attendance at an institution of higher education until permanent rules are promulgated by the Board. Unless the student is able to pay for the special needs services through means other than the BEST program, the student may not be able to attend college.

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

The text of the proposed rule amendments is as follows:

AMENDMENTS

1700-5-2-.01 In General is amended by deleting from Subparagraph (2)(c) the words “and any penalties assessed thereon” so that, as amended, the Subparagraph shall read:

- (c) “Account” means the record that contains the amount of contributions maintained on behalf of a Beneficiary under the Contract, plus the earnings or losses incurred thereon, including any withdrawals made from the Account.

Authority: T.C.A. §§49-7-805(16), 49-7-802, 49-7-803, 49-7-808 and 49-7-812(b).

1700-5-2-.01 In General is amended by deleting Subparagraph (2)(1) in its entirety and by substituting instead the following:

- (l) “Other Educational Costs” means fees and the costs of books, supplies and equipment required for the enrollment or attendance of the Beneficiary at the Institution of Higher Education where the Beneficiary is enrolled. “Other Educational Costs” also means the costs of Room and Board, as defined in Rule 1700-5-2-.01(2)(t) below, incurred while the Beneficiary is enrolled in an Institution of Higher Education on at least a half-time basis and expenses for special needs services in the case of a special needs Beneficiary which are incurred in connection with the enrollment or attendance of the special needs Beneficiary at the Institution of Higher Education where the Beneficiary is enrolled.

Authority: T.C.A. §§49-7-805(16), 49-7-802(6), 49-7-803, 49-7-805(14) and 49-7-808.

1700-5-2-.01 In General is amended by deleting Subparagraph (2)(n) in its entirety and by substituting instead the following:

- (n) “Permanent disability” means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. An individual shall not be considered to have a Permanent Disability unless the individual furnishes proof of the existence thereof from a health care professional in such form and manner as the Board may require. Any finding of a Permanent Disability must be approved by the Board.

Authority: T.C.A. §§49-7-805(16), 49-7-809 and 49-7-811.

1700-5-2-.04 Beneficiary Accounts is amended by deleting from Paragraph (1) the words “and any penalties assessed thereon” so that, as amended, the Paragraph shall read:

- (1) Separate Accounting. The Board will maintain a separate individual account for each Contract, showing the name of the Beneficiary and the Redemption Value of the Account, including any withdrawals made from the Account.

Authority: T.C.A. §§49-7-805(16) and 49-7-812(b).

1700-5-2-.08 Payments to Beneficiary is amended by deleting Subparagraph (1)(a) in its entirety and by substituting instead the following:

- (a) Written Request. If the Beneficiary has paid Tuition or Other Educational Costs required for the enrollment or attendance of the Beneficiary at an Institution of Higher Education, then the Beneficiary may make a written request to the Board for reimbursement of the amount so paid. The request must contain a certification from the Beneficiary that the amount requested was actually used to pay for his or her Tuition or Other Educational Costs. Third party documentation to substantiate the request shall not be required unless otherwise provided for in Section 529 of the Internal Revenue Code or the regulations promulgated thereunder.

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-809(b).

1700-5-2-.08 Payments to Beneficiary is amended by deleting Subparagraph (1)(b) in its entirety and by substituting instead the following:

- (b) Amount and Timing of Payment. Any reimbursement made to a Beneficiary under this Subparagraph

will equal the amount requested, not to exceed the Redemption Value of the Beneficiary's Account. The reimbursement will be paid to the Beneficiary within sixty (60) days of receipt by the Board of the request required in Subparagraph (1)(a) of this Rule.

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-809(b).

1700-5-2-.08 Payments to Beneficiary is amended by deleting Paragraph (2) in its entirety and by substituting instead the following:

- (1) Advance Payments.
 - (a) Written Request. If the Beneficiary has been accepted for enrollment in an Institution of Higher Education and intends to use funds in the Account for the payment of Tuition or Other Educational Costs required for the attendance of the Beneficiary at the Institution, then the Beneficiary may make a written request to the Board for a distribution to be made directly to the Beneficiary for the payment of such costs. The request must contain a certification from the Beneficiary that the distribution will be expended solely for his or her Tuition or Other Educational Costs.
 - (b) Amount and Timing of Payment. Within sixty (60) days of receipt of the request and the other information required in Subparagraph (2)(a) of this Rule, the Board will pay to the Beneficiary an amount equal to the funds requested, not to exceed the Redemption Value of the Beneficiary's Account.

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-809(b).

1700-5-2-.10 Scholarship Recipients is amended by deleting the first sentence of Paragraph (1) in its entirety and by substituting instead the following:

- (1) If a Beneficiary is the recipient of a scholarship, allowance or payment described in Section 25A(g)(2) of the Internal Revenue Code that the Board determines cannot be converted into money by the Beneficiary, the Board will upon the request of the Refund Recipient and upon being furnished information about the scholarship, allowance or payment:

Authority: T.C.A. §§49-7-805(16), 49-7-805(14) and 49-7-811(d).

1700-5-2-.10 Scholarship Recipients is amended by deleting Subparagraph (1)(a) in its entirety and by substituting instead the following:

- (a) Refund.
 1. Pay a refund to the Refund Recipient in an amount equal to the Redemption Value of the Account that is not needed to cover Tuition or Other Educational Costs on account of the scholarship, allowance or payment and which would have otherwise been paid during that Academic Term.
 2. If the scholarship, allowance or payment has a duration that extends beyond one (1) Academic Term, the Refund Recipient may request a refund in advance of the scholarship payment. The amount of the refund payable to the Refund Recipient will be equal to (i) the Redemption Value of the Beneficiary's Account that is not needed to cover the future Tuition or Other Educational Costs on account of the scholarship, allowance or payment, (ii) minus any applicable termination fee charged by the Board pursuant to Rule 1700-5-2-.14 below. The Redemption Value of the Account shall be determined as of

the date the refund is made.

Authority: T.C.A. §§49-7-805(16), 49-7-805(10), 49-7-805(14) and 49-7-811(d).

1700-5-2-.11 Contract Termination and Refunds is amended by deleting from Subparagraph (2)(b) the words and figures “ten percent (10%) of the earnings portion thereof, if any, minus (iii)” so that, as amended, the Subparagraph shall read:

- (a) Voluntary Reasons. In the event a Contract is terminated under any of the conditions described in Subparagraphs (1)(b) – (1)(e) above, the amount of the refund paid to the Refund Recipient shall be equal to: (i) the Redemption Value of the Account at the time the refund is made, minus (ii) any applicable termination fee charged by the Board pursuant to Rule 1700-5-2-.14 below.

Authority: T.C.A. §§49-7-805(16), 49-7-805(10), 49-7-805(14) and 49-7-811.

1700-5-2-.12 Plan Termination is amended by deleting from Paragraph (1) the punctuation, words and figures “, minus any applicable penalty required under Section 529 of the Internal Revenue Code or the regulations promulgated thereunder” so that, as amended, the Paragraph shall read:

- (1) If it is determined by the Board that the Educational Savings Plan is, for any reason, financially unfeasible, or is not beneficial to the citizens of Tennessee or to the State itself, then the Board, pursuant to T.C.A. §49-7-823, may terminate the Contracts. Subject to Rule 1700-5-2-.13 below, the amount of the refund to which the Refund Recipient is entitled shall be the refund provided for in Paragraph (2)(a) of Rule 1700-5-2-.11.

Authority: T.C.A. §§49-7-805(16), 49-7-823 and 49-7-824.

The emergency rules set out herein were properly filed in the Department of State on the 15th day of January, 2002, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the day of 29th day of June, 2002. (01-30)

PROPOSED RULES

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

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

Presented herein are proposed rules, amendments and repeals 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, amendments and repeals 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 Department of State 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:

NEW RULES

TABLE OF CONTENTS

0800-1-1-.01	Purpose and Scope	0800-1-1-.05	Applicability of Standards
0800-1-1-.02	Definitions	0800-1-1-.06	Adoption and Citation of Federal Standards
0800-1-1-.03	Petitions for the Issuance, Amendment, or Repeal of a Standard	0800-1-1-.07	Exceptions to Adoption of Federal Standards in 29 CFR Part 1910
0800-1-1-.04	Amendments to this Chapter		

SUMMARY OF NEW RULES

The Department of Labor and Workforce Development, Division of Occupational Safety and Health, is revising the occupational safety and health rules in Chapters 0800-1-1 for general industry, 0800-1-6 for construction, and 0800-1-7 for agriculture. The rules were adopted from the Occupational Safety and Health Administration (OSHA) standards codified in Title 29, Code of Federal Regulations (CFR), Parts 1910, 1926 and 1928 respectively. The revisions reflect minor technical amendments and editorial corrections to the rules. A summary of the proposed rules is as follows:

Rule 0800-1-1-.06(2) is amended to change the effective date of the OSHA standards that the division adopts as the enforcement authority for general industry violations from January 31, 2001 to January 31, 2002. This change assures that we are using the current version of the OSHA standards. There were no major changes to the OSHA standards during this time frame.

Under Rule 0800-1-1-.07(1), four exceptions to the adoption of the OSHA standards in 29 CFR 1910 are revised. Rules 0800-1-1-.07(1)(e) and (f) are repealed, and the Rule 0800-1-1-.07(1)(g) is amended and changed to Rule 0800-1-1-.07(1)(e). On June 30, 1993, OSHA merged the provisions of existing standards in 29 CFR 1910.13 Ship repairing, 29 CFR 1910.14 Shipbuilding, and 29 CFR 1910.15 Shipbreaking into a single standard 29 CFR 1910.15 Shipyard employment. Since these provisions merged, Rule 0800-1-1-.07(1)(e) 29 CFR 1910.13 Ship repairing, and Rule 0800-1-1-.07(1)(f) 29 CFR 1910.14 Shipbuilding are repealed. In addition, Rule 0800-1-1-.07(1)(g) 29 CFR 1910.15 Shipbreaking is amended and changed to Rule 0800-1-1-.07(1)(e) 29 CFR 1910.15 Shipyard employment.

Rule 0800-1-1-.07(1)(h) is amended and changed to Rule 0800-1-1-.07(1)(f). On January 21, 1998, OSHA made editorial revisions to the general industry standards incorporated by reference in the Longshoring and marine terminals standard. Accordingly, 0800-1-1-.07(1)(h) 29 CFR 1910.16 Longshoring is amended and changed to Rule 0800-1-1-.07(1)(f) 29 CFR 1910.16 Longshoring and marine terminals.

Rule 0800-1-1-.07(2)(a) is repealed. It was adopted from the ionizing radiation standard at 29 CFR 1910.96(b)(5) which provided that "No employer shall change the method used by him to determine calendar quarters except at the beginning of a calendar year." OSHA revoked this provision on October 24, 1978. OSHA determined that if an employer changed the method of determining calendar quarters during a calendar year that any exposures that occurred as a result of this change would be inconsequential. Since the provision is no longer in effect, Rule 0800-1-1-.07(2)(a) is repealed.

Rule 0800-1-1-.07(2)(b) is repealed. It was adopted from the slings standard at 29 CFR 1910.184(f)(6) which provided that "Eyes in wire rope slings shall not be formed by using knots or wire rope clips." OSHA revoked this provision on March 30, 1976 as a result of a suit filed by Bethlehem Steel Corporation. The validity of this provision was challenged during the rulemaking process. After review, it was determined that the prohibition of knots and wire rope clips should be deleted. Since the provision is no longer in effect, Rule 0800-1-1-.07(2)(b) is repealed.

Rules 0800-1-1-.07(2)(c) and (d) have been revised to remove outdated and confusing information. Tables Z-1-A, Z-2 and Z-3 have been combined along with several paragraphs, subparagraphs and footnotes into a new consolidated Table Z-1-A. This revised table is much easier to use and does not change any requirements that were included in the old rules. Since several corrections were made, the new table accurately reflects the air contaminant exposure limits allowed.

Rule 0800-1-1-.07(2)(e) is repealed. It was adopted from the sanitation standard at 29 CFR 1910.141(d)(2)(i) which provided that the number of lavatories required in any place of employment must be proportional with the number of employees. This standard referenced Table J-2 which contained the number of lavatories based on the number of employees. OSHA revoked these provisions on October 24, 1978. OSHA determined that these provisions contain unnecessary detail. In addition, the remaining requirements for lavatories in 29 CFR 1910.141(d)(2) are considered adequate at addressing the need for washing facilities in a place of employment. Since the provisions are no longer in effect, Rule 0800-1-1-.07(2)(e) is repealed.

Rule 0800-1-6-.03(2) is amended to change the effective date of the OSHA standards that the division adopts as the enforcement authority for construction activities from January 31, 2001 to January 31, 2002. This change assures that we are using the current version of the OSHA standards. There were no major changes to the OSHA standards during this time frame.

Rule 0800-1-7-.01(2) is amended to change the effective date of the OSHA standards that the division adopts as the enforcement authority for agricultural activities from January 31, 2001 to January 31, 2002. This change assures that we are using the current version of the OSHA standards. There were no major changes to the OSHA standards during this time frame.

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 proposed rules set out herein were properly filed in the Department of State on the 11th day of January, 2002, 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 31st day of May, 2002. (01-05)

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

Presented herein are proposed amendments of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated, § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 350 of the Genesco Park Building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Fifth Floor, James K. Polk State Office Building, Sixth and Deaderick, Nashville, TN 37219, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Mary M. Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4438.

The text of the proposed amendments is as follows:

AUSTIN PEAY STATE UNIVERSITY

CHAPTER 0240-3-1
STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (2) of rule 0240-3-1-.01 Institution Policy Statement is amended by deleting the word "violence" and adding the word "violation" in the third sentence so that as amended paragraph (2) shall read:

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

Rule 0240-3-1-.01 Institution Policy Statement is amended by adding new paragraphs (3) and (4) so that as amended new paragraphs (3) and (4) shall read:

- (3) Disciplinary action may be taken against a student for violations of the foregoing Regulations which occur on University owned, leased, or otherwise controlled property, or which occur off-campus when the conduct impairs, interferes with or obstructs any University activity or the missions, processes and functions of the University. In addition, disciplinary action may be taken on the basis of any conduct, on or off campus that violates any local ordinance, state or federal laws, violates University policies of Student Organizations, or poses a substantial threat to persons or property within the University community.
- (4) For the purpose of these Regulations, a “student” shall mean any person who is registered for study at Austin Peay State University for any academic period. A person shall be considered a student during any period that follows the end of an academic period that the student has completed until the last day for registration for the next succeeding regular academic period, and during any period in which the student is under suspension from the university.

Authority: T.C.A. §49-8-203.

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

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

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

4. Any form of disruptive behavior in the classroom, during any campus event or activity, or at any location on campus.

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

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

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

- (j) Alcoholic beverages. The use and/or possession of alcoholic beverages and/or public intoxication on University owned or controlled property, or the violation of any local ordinance or state, or federal law concerning alcoholic beverages, on or off campus, or a violation of any terms of the Austin Peay State University Drug-Free Policy Statement. In addition, officially registered student organizations that sponsor events off campus, where alcoholic beverages are present and available for consumption, must adhere to all local, state and national laws concerning alcoholic beverages and must follow the University’s Risk Management guidelines for Student Organizations.

Subparagraph (q) of paragraph (2) of rule 0240-3-1-.02 Disciplinary Offenses is further amended by deleting the word “fore-going” so that as amended subparagraph (q) shall read:

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

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

- (x) Pets. With the exception of “service animals” and the exception of animals used for academic research purposes, animals are prohibited on campus. The term “service animal” is defined as any animal individually trained to do work or perform tasks for the benefit of a person with a disability (e.g., a guide dog, signal dog, etc.). “Service animals” perform some of the functions and tasks that the individual with a disability cannot perform for him/herself. The University may require reasonable documentation that the animal is certified as a “service animal” by a recognized training program.

Authority: T.C.A. §49-8-203.

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

- (1) The instructor has the primary responsibility for control over classroom behavior and maintenance of academic integrity, and can order the temporary removal or exclusion from the classroom of any student engaged in disruptive conduct, or conduct violative of the general rules and regulations of the institution. Extended or permanent exclusion from the classroom or further disciplinary action can be effected only through appropriate procedures established by the division of Student Affairs..

Paragraph (2) of rule 0240-3-1-.03 Academic and Classroom Misconduct is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) Academic dishonesty may be defined as any act of dishonesty in academic work. This includes, but is not limited to, plagiarism, the changing or falsifying of any academic documents or materials, cheating, and giving or receiving of unauthorized aid in tests, examinations, or other assigned work. Students guilty of academic misconduct, either directly or indirectly through participation or assistance, are immediately responsible to the instructor of the class. Penalties for academic misconduct will vary with the seriousness of the offense and may include, but are not limited to, a grade of “F” on the work in question, a grade of “F” for the course, reprimand, probation, suspension, and expulsion.

Paragraph (3) of rule 0240-3-1-.03 Academic and Classroom Misconduct is further amended by deleting the words “appropriate institutional procedures “ and substituting instead the words “Academic Grievance Procedures” so that as amended paragraph (3) shall read:

- (3) If the student believes that he or she has been erroneously accused of academic misconduct and if his or her final grade has been lowered as a result, the student may appeal the case through the Academic Grievance Procedures.

Rule 0240-3-1-.03 Academic and Classroom Misconduct is further amended by adding a new paragraphs (4) and (5) . New paragraphs (4) and (5) shall read:

- (4) Disruptive behavior in the classroom may be defined, but is not limited to, behavior that obstructs or disrupts the learning environment (e.g., offensive language, harassment of students and professors, repeated outbursts from a student which disrupts the flow of instruction or prevents concentration on the subject being taught, failure to cooperate in maintaining classroom decorum, etc.), and the use of any electronic or other device which disturbs or interrupts the concentration of others (e.g., disturbing noises from beepers, cell phones, palm pilots, lap-top computers, games, etc.).
- (5) Class attendance and punctuality requirements are contracted between the faculty and the students, through specific expectations for attendance and punctuality and specific consequences that are outlined by individual faculty members in the printed syllabus for each course.

Students are expected to attend classes regularly and on time and are responsible for giving explanations/rationale for absences and lateness directly to the faculty member for each course in which they are enrolled. In cases where student absences are the result of emergency circumstances (e.g., death in the family, a student's serious injury or incapacitating illness), and the student is unable to make immediate contact with faculty, the student may contact the Office of Student Affairs for assistance in providing such immediate notification to faculty. However, the student remains responsible for verifying the emergency circumstances to faculty and for discussing arrangements with faculty for completion of course work requirements.

Authority: T.C.A. §49-8-203.

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

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

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

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

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

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

Subparagraph (g) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by deleting the word "constitution" and substituting the word "constitutes, and adding the words "Parents may be notified" so that as amended subparagraph (g) shall read:

- (g) Interim or Summary Suspension. Though as a general rule, the status of a student accused of violations of these regulations should not be altered until a final determination has been made in regard to the

charges against him, summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused or of any other member of the institution community or its guest, destruction of property, or substantial disruption of classroom or other campus activities. A final determination of the charges against any student summarily suspended shall be made through appropriate hearing procedures within ten (10) class days of such suspension during which time the accused shall forfeit all rights and privileges as a student of the University. Parents may be notified.

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

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

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

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

Subparagraph (l) of paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by deleting the words “to he” and substituting instead the words “to the” and adding the words “Parents may be notified” so that as amended subparagraph (l) shall read:

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

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

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

Paragraph (2) of rule 0240-3-1-.04 Disciplinary Sanctions is further amended by adding a new subparagraph (n). New subparagraph (n) shall read:

- (n) Fines. Penalties in the form of fines may be enforced against a student or an organization whenever the appropriate hearing officer(s) or hearing body deems necessary. The sanction of fines may be imposed in addition to other forms of disciplinary sanctions. Failure to pay fines to the Business Office within two weeks of the decision will result in further disciplinary action.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (1) of rule 0240-3-1-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended subparagraph (a) shall read:

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

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

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

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

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

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

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

Subparagraph (c) of paragraph (2) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the word “final” and substituting instead the word “final” and adding the word “be” so that as amended subparagraph (c) shall read:

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

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

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

Subparagraph (h) of paragraph (3) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the word “Police” and “all” and substituting instead the word “Policy” so that as amended subparagraph (h) shall read:

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

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

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

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

Subparagraph (b) of paragraph (5) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the words “Dean of Students” and Dean of Admissions and the” and substituting instead the words “Vice President for Student Affairs” and Office of the Registrar and the appropriate” so that as amended subparagraph (b) shall read:

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

Subparagraph (d) of paragraph (5) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the words “Dean of Students” and substituting instead the words “Vice President for Student Affairs” and adding the word “class” so that amended subparagraph (d) shall read:

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

Subparagraphs (a) and (b) of paragraph (6) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the words “Dean of Students” and substituting instead the words “Vice President for Student Affairs” so that as amended subparagraphs (a) and (b) shall read:

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

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

(7) Appellate Authority

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

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

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

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

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

Subparagraph (b) of paragraph (8) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by adding a new part 8. New part 8. shall read:

- 8. Student organizations that sponsor events off campus, where alcoholic beverages are present and available for consumption, must adhere to all local, state and national laws concerning alcoholic beverages and must follow the University’s risk management guidelines for student organizations.

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

- (c) Sanctions Against Student Organizations. Any registered student organizations may be given a reprimand, may be placed on probation, suspension, restriction or may have its registration withdrawn by the Assistant Vice President for Student Affairs, or by another Student Affairs Administrator appointed by the Vice President for Student Affairs. Such actions may be taken after having a hearing conducted in accordance with the procedures outlined in this document for disciplinary procedures. In the case of Withdrawal of Registration of an organization, the procedures to be used will be the contested case provisions of the Tennessee Uniform Administrative Procedures Act, unless those provisions have been waived in writing by an authorized representative of the student organization. Such action may be taken for any one of the following reasons:

Authority: T.C.A. §49-8-203.

(01-06)

EAST TENNESSEE STATE UNIVERSITY**CHAPTER 0240-3-2
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Subparagraph (j) of paragraph (2) of rule 0240-3-2-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages. The use, possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution; at an institution-sponsored event, on property owned or controlled by an affiliated clinical site; or in violation of any term of the East Tennessee State University Drug Free Schools and Communities Policy Statement.

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

- (k) Drugs: The unlawful use, possession, distribution, sale or manufacture, of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana); being under the influence of any such drug or controlled substance, or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the East Tennessee State University Drug-Free Schools and Communities Policy Statement.

Subparagraph (v) of paragraph (2) of rule 0240-3-2-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph in its entirety and relettering the subsequent subparagraphs appropriately.

Authority: T.C.A. §49-8-203.

Subparagraph (h) of paragraph (2) of rule 0240-3-2-.04 Disciplinary Sanctions is amended by deleting the text of the subparagraph including the second paragraph and substituting instead the following language so that as amended subparagraph (h) shall read:

- (h) Assignment of work hours. A specified number of supervised hours of work to be completed on campus may be assigned. This work will be commensurate to the seriousness of the violation.

Paragraph (2) of rule 0240-3-2-.04 Disciplinary Sanctions is further amended by adding new subparagraphs (i) through (m). New subparagraphs (i) through (m) shall read:

- (i) Mandatory participation in, and satisfactory completion of, a drug or alcohol abuse program, or rehabilitation program.
- (j) Probation. Continued enrollment of a student on a student on probation may be conditioned upon adherence to these regulations. Any student placed on probation will be notified of the terms and length of the probation. Probation may include restrictions upon the extracurricular activities of a student. Any conduct in violation of these regulations while on probationary status may result in the imposition of a more serious disciplinary sanction.

- (k) Suspension. If a student is suspended, he or she is separated from the institution for a stated period of time with conditions of readmission stated in the notice of suspension.
- (l) Expulsion. Expulsion entails a permanent separation from the institution. The imposition of this sanction is a permanent bar to the student's readmission to the institution.
- (m) Interim or summary suspension. Though as a general rule, the status of a student accused of violations of these regulations should not be altered until a final determination has been made in regard to the charges against him, summary suspension may be imposed upon a finding by the appropriate institutional official that the continued presence of the accused on campus constitutes an immediate threat to the physical safety and well-being of the accused, or of any other member of the institution community or its guests, destruction of property, or substantial disruption of classroom or other campus activities. Interim suspension may be invoked only by the president, the provost/vice president for academic affairs, or the vice president for administration and student affairs in consultation with other university officials. In any case of immediate suspension, the student shall be given an opportunity at the time of the decision or immediately thereafter to contest the suspension, and if there are disputed issues of fact or cause and effect, the student shall be provided a hearing on the suspension as soon as possible.

Authority: T.C.A. §49-8-203.

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

- (a) All cases which may result in suspension or expulsion of a student or revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA) and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with institutional procedures established by these rules.

Part 3. of subparagraph (b) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the words "Greek Judicial Board" and adding the words Inter-Fraternity Judicial Board so that as amended part 3. shall read:

- 3. The Residence Hall Association Judicial Board, the Inter-Fraternity Judicial Board, the Panhellenic Judicial Board, and the Pan-Hellenic Judicial Committee shall be lower courts within the student judicial system.

Part 3. of subparagraph (c) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the words "Greek Judicial Board" and adding the words "Inter-Fraternity Judicial Board, the Panhellenic Judicial Board" so that as amended part 3. shall read:

- 3. The Residence Hall Association Judicial Board, the Inter-Fraternity Judicial Board, the Panhellenic Judicial Board, and the Pan-Hellenic Judicial Committee shall each be composed of those persons designated by the constitution of those respective bodies.

Subpart (ii) of part 1. of subparagraph (e) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the text of the subpart and substituting instead the following language so that as amended subpart (ii) shall read:

- (ii) Violations of the internal standards of the Residence Hall Association (RHA), the Inter-Fraternity Council (IFC), the Panhellenic Council (PC), or the Pan-Hellenic Council (PC) shall be reported to the authorities designated in their respective constitutions.

Item (II) of subpart (ii) of subparagraph (e) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the words “Director of the Student Activities Center” and “Greek Judicial Board” and adding the words “Assistant Vice President for Student Life and Leadership” and “Intra-Fraternity Judicial Board, the Panhellenic Judicial Board,” so that as amended item (II) shall read:

- (II) The IFC-PC authorities shall report the case to the Assistant Vice President for Student Life and Leadership who shall either direct that the case be reviewed under the Institutional Administrative Procedures or referred to the Inter-Fraternity Judicial Board, the Panhellenic Judicial Board or the Pan-Hellenic Judicial Committee.

Item (III) of subpart (ii) of subparagraph (e) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the text of the item (III) in its entirety.

Subpart (iv) of part 1. of subparagraph (f) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the words “Greek Judicial Board” and adding the words “Inter-Fraternity Judicial Board or the Panhellenic Judicial Board” so that as amended subpart (iv) shall read:

- (iv) The Inter-Fraternity Judicial Board or the Panhellenic Judicial Board shall have the original jurisdiction only in cases involving violations of regulations specified in the Inter-Fraternity and Panhellenic Constitutions and By-Laws.

Part 1. of subparagraph (g) of paragraph (3) of rule 0240-3-2-.05 Disciplinary Procedures is further amended by deleting the words “Student Activities Center” and adding the words “Center for Student Life and Leadership” so that as amended part 1. shall read:

1. All student organizational functions with alcohol shall be registered with the Center for Student Life and Leadership at least four (4) business days prior to the date of the function. When functions are to take place in university owned, leased or controlled property, policies concerning use of that property should be consulted and must be complied with.

Authority: T.C.A. §49-8-203.

Part 1. of subparagraph (b) of paragraph (6) of rule 0240-3-2-.06 Traffic and Parking Regulations is amended by deleting the text of the part in its entirety and renumbering the subsequent parts appropriately.

Paragraph (6) of rule 0240-3-2-.06 Traffic and Parking Regulations is further amended by adding a new subparagraph (c) and relettering the subsequent subparagraphs appropriately. New subparagraph (c) shall read:

- (c) Thirty-five dollar (\$35.00) Fines. A fine of thirty-five (\$35.00) will be imposed for speeding; in addition, a fine of four dollars (\$4.00) will be imposed for each mile per hour over the posted speed limit. The additional mile per hour fine will be noted on the citation at the time of issue.

Part 1. of subparagraph (g) of paragraph (6) of rule 0240-3-1-.05 Disciplinary Procedures is further amended by deleting the number (4) and adding the number (7) from the part so that as amended part (1) shall read:

1. All student organizational functions with alcohol shall be registered with the Student Activities Center at least (7) business days prior to the date of the function. When functions are to take place in university owned, leased or controlled property, policies concerning use of that property should be consulted and must be complied with..

Authority: T.C.A. §49-8-203.

EAST TENNESSEE STATE UNIVERSITY

CHAPTER 0240-4-2 STUDENT HOUSING RULES

AMENDMENTS

Paragraph (2) of rule 0240-4-2-.01 Eligibility is amended by deleting the word “fees” and adding the word “rules” so that as amended paragraph (2) shall read:

- (2) The University provides housing for faculty and staff only on a temporary (60-day maximum) basis, and then only when space is available. Temporary housing must be vacated by the first day of the month in which the regular fall term begins. All occupants using temporary housing are bound by the same rules and regulations as regular student occupants.

Paragraph (3) of rule 0240-4-2-.01 Eligibility is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” and “Office of Housing and Residence Life” so that as amended paragraph (3) shall read:

- (3) Each student living in the residence halls must have registered at East Tennessee State University as a full-time undergraduate or graduate student, unless he/she has received special permission from the Director of Housing and Residence Life. A special form for approval to live in housing when a student is not full-time is available in the Office of Housing and Residence Life. Married students must have permission from the Director of Housing and Residence Life to live in the residence halls. It is the prerogative of the Director of Housing and Residence Life to refuse a room assignment to any applicant or to terminate the occupancy of any resident when there is justification.

Paragraph (4) of rule 0240-4-2-.01 Eligibility is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended paragraph (4) shall read:

- (4) Students who become academically ineligible to return to school will automatically have their housing contract for the next semester canceled. A student may reapply for housing after he/she has been readmitted by appeal. Arrangements to remove any belongings in University housing should be made with the Office of Housing and Residence Life immediately after notification is received concerning academic ineligibility to return. Housing deposits will be automatically refunded, unless the Office of Housing and Residence Life is notified in writing by the resident to do otherwise.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended paragraph (1) shall read:

- (1) Violation of University and housing rules and regulations will be dealt with through the Office of Housing and Residence Life staff, and/or referred through the University Disciplinary Procedures.

Paragraph (2) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the paragraph and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) Residents must be in compliance with all rules and regulations as stated in the Residence Hall Student Handbook, and the University Student Handbook, The Spectrum. Additional regulations relevant to residents will be made via memoranda flyers, and/or notices.

Subparagraph (a) of paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the word “Assistant” and adding the words “Advisor (RA)” so that as amended subparagraph (a) shall read:

- (a) Warning by Resident Advisor (RA);

Subparagraph (b) of paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by adding the words “(RD); Building Coordinator (BC)” so that as amended subparagraph (b) shall read:

- (b) Conference with Resident Director (RD); Building Coordinator (BC);

Subparagraph (c) of paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by adding the words “/Building Coordinator” so that as amended subparagraph (c) shall read:

- (c) Residence Director/Building Coordinator Warning;

Subparagraph (f) of paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (f) shall read:

- (f) Conference with the Area Coordinator, Apartment Manager or Assistant Director of Housing and Residence Life.

Paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by adding new subparagraph (g) and relettering the subsequent subparagraph appropriately. New subparagraph (g) shall read:

- (g) Conference with Director of Associate Director of Housing and Residence Life;

Subparagraph (n) formerly subparagraph (m) of paragraph (3) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the words “Associate Vice President for Student Affairs” and adding the words “Senior Associate Vice President for Administration and Student Affairs/Dean of Students” so that as amended subparagraph (n) shall read:

- (n) Referral to Senior Associate Vice President for Administration and Student Affairs/Dean of Students;

Paragraph (6) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the words “Resident Director of Resident Assistant” and adding the words “Hall Staff” so that as amended paragraph (6) shall read:

- (6) Residents should enter and exit at designated doors. A locked exterior door “propped” open is endangering the safety and security of other persons and property. This is considered a serious disciplinary matter. The Hall Staff should be consulted for designation of an authorized door.

Paragraph (7) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (7) shall read:

- (7) Any resident giving unauthorized access to the residence facility will be subject to disciplinary action.

Paragraph (10) of rule 0240-4-2-.02 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (10) shall read:

- (10) University regulations and/or state laws, designed with safety in mind, prohibit possession or use of these items in the residence facilities: firearms, ammunition, explosives, combustion engines, combustibles, lethal weapons, fire-crackers, alcohol, illegal drugs and narcotics, drug paraphernalia and pets (except fish, in an aquarium, not to exceed ten (10) gallons), water beds, added door locks, use of all tobacco products, and weight lifting equipment.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-4-2-.03 Resident Responsibilities is amended by deleting the words “Resident Director” and adding the words “hall staff” so that as amended paragraph (1) shall read:

- (1) When checking in, the student must contact the hall staff to secure and complete the Information/Inventory/Assessment (IIA) card. The IIA card should be checked for accuracy; a note of any discrepancies should be made on the card. The student may be charged for damaged or missing items that are not noted on the IIA card.

Paragraph (2) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) A key/card access will be issued to each resident upon checking into the hall. If the key/card is lost, stolen or misplaced, a resident may sign out a temporary key/card from the hall staff until the lock can be rekeyed/or card replaced. The resident bears the cost for rekeying the lock and/or replacing the card. It is the resident’s responsibility to have their card replaced. If a resident fails to return the issued key/card when checking out or withdrawing, the lock will be rekeyed and/or card will be deactivated, and the resident will be charged the cost of the rekey and/or card replacement.

Paragraph (3) of rule 0240-4-2-.03 Resident Responsibilities is further amended by adding the words “key/card access” and “hall” so that as amended paragraph (3) shall read:

- (3) Residents should guard their room key/card access for their security and protection. It is the responsibility of the resident to keep up with his/her room key/card access and to have it available to gain access to the hall/room when needed.

Paragraph (4) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (4) shall read:

- (4) The resident is responsible for the condition of the room and all furnishings which are assessed, and shall reimburse University Housing for all damage to or loss of these accommodations and furnishings. Residents of a facility may also be required to share the expense of repair or replacement of any property in areas commonly used by residents and their guests. Charges for damages and/or cleaning will be assessed against the resident(s) by the University via the student account(s) or housing deposit(s). Determination of the amount of such loss or damage shall be made by the University. Failure to pay the assessment will result in an encumbrance on the resident’s registration or future housing.

Paragraph (5) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (5) shall read:

- (5) The University reserves the right to enter the resident’s room to sustain proper maintenance and thereby insure the health and safety of all residents of the hall, to secure the building prior to each semester break or vacation and/or

to investigate when reasonable cause exists to believe that violations of rules, regulations, and state/federal laws are occurring.

Paragraph (6) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the words “by staff personnel” and adding the words “by hall staff” so that as amended paragraph (6) shall read:

- (6) Routine room inspections are conducted by hall staff once a week. These inspections are made to insure that:

Paragraph (8) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (8) shall read:

- (8) All trash and garbage is to be taken to the dumpster located adjacent to the residence facility. Trash or garbage left within or around the residence facility will result in an assessment against the resident(s).

Paragraph (9) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the word “hall” and adding the word “facility” so that as amended paragraph (9) shall read:

- (9) For everyone’s protection and safety, and in accordance with Housing regulations and the National Fire Codes, fire drills will be conducted on a regular basis (3 times per semester). Fire drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions occurring in case of fires. All residents and guests are required to take part in the fire drill and leave the building. Failure to evacuate a building during a fire alarm could result in immediate dismissal from the residence facility or other appropriate disciplinary action. Residents are urged to protect themselves by complying with regulations and being familiar with emergency procedures.

Subparagraph (b) of paragraph (10) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) Smoking and the use of tobacco products are prohibited in any residence facility.

Subparagraph (g) of paragraph (10) of rule 0240-4-2-.03 Resident Responsibilities is further amended by adding the word “live” so that as amended subparagraph (g) shall read:

- (g) Use of live Christmas trees is prohibited.

Subparagraph (i) of paragraph (10) of rule 0240-4-2-.03 Resident Responsibilities is further amended by adding the words “hall staff” so that as amended subparagraph (i) shall read:

- (i) Report any fire or empty fire extinguishers to the hall staff.

Subparagraph (j) of paragraph (10) of rule 0240-4-2-.03 Resident Responsibilities is further amended by adding the words “or halogen” so that as amended subparagraph (j) shall read:

- (j) The following appliances may not be used in the resident’s room: sun or halogen lamps, open-faced electrical (hot plate) or heating appliances, air-conditioners, outside antennas, or any item(s) which cause electrical breakers to trip.

Paragraph (11) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (11) shall read:

- (11) Long distance telephone calls may not be charged to room telephones or any other campus telephone. Long distance calls may be made by using a personal phone card or an authorization number which may be obtained from

the Office of Information Technology. Misuse of the telephone, cable t.v., or data access equipment is considered a disciplinary matter.

Paragraph (12) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the words “Resident Director” and adding the words “hall staff immediately” so that as amended paragraph (12) shall read:

- (12) Window screens are health and safety equipment and should not be unhooked or removed from the windows. If a screen is damaged, it should be reported to the facilities staff immediately. Removal or damage will result in an assessment.

Paragraph (14) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the word “halls” and adding the words “facilities” so that as amended paragraph (14) shall read:

- (14) Transfer of furniture within or between the residence facilities by residents is prohibited. Residents are not permitted to use furniture from a public area, nor may they remove from the room items that are furnished by the University.

Paragraph (17) of rule 0240-4-2-.03 Resident Responsibilities is further amended by deleting the words “hall rooms” and adding the word “facilities” so that as amended paragraph (17) shall read:

- (17) Dart boards are prohibited in all residence facilities.

Authority: T.C.A. §49-8-203.

Rule 0240-4-2-.04 Visitation Policy is amended by deleting the text of the entire rule and substituting instead the following language so that as amended rule 0240-4-2-.04 shall read:

0240-4-2-.04 VISITATION POLICY

Visitation Policies and Lifestyle Options

The Office of Housing and Residence Life strives to provide affordable, enjoyable, safe, and well-maintained services and facilities for students living on campus. It is also a goal to establish interactive and inclusive learning communities with the halls through the participation and involvement of all members. A variety of lifestyle options provides opportunities for students to engage in active social learning in a structural environment such as the residence halls. This environment can allow for lifestyle choices, yet set high expectations for students and encourage value clarification, independence, and autonomy.

All residents are expected to contribute to the development of the community by demonstrating respect for themselves and others. Visitation policies state the time, place, and manner in which residents may host visitors of either sex in their rooms or other living areas of the residential units. These policies cover the room/apartment, hallways, lobbies, and all other common areas of the residence facility/apartment and are in effect at all times throughout the year.

The procedures are designed to accommodate visitors in a manner that is respectful and responsive to resident concerns for safety and privacy, while ensuring an appropriate balance between academic and social needs within the residence community. At no time should the presence of visitors disrupt the community or supercede a roommate’s right to privacy.

- (1) Residents may choose between halls/floors/areas with the following Lifestyle Options:
 - (a) Restricted visitation in which no guests of the opposite gender are allowed at any time may be requested by a student. A floor, wing or individual room may be designated a restricted visitation area by the Office of Housing and Residence Life, depending on demand.
 - (b) During the first two weeks of the academic year, the residents of each designated facility/apartment will vote on their visitation hours for that academic year. Three choices ranging from noon to midnight on Sunday through Thursday with a noon to 2:00 a.m. Friday and Saturday will be presented for a vote by each Hall Council, and a simple majority vote of the residents is required for implementation.
 - (c) Designated halls/apartments will vote on visitation hours as defined in Option (b). Additional hours may be selected to include visitation from noon Friday to Sunday midnight. A designated area, generally the lobby, will be established to allow assigned residents to host guest of both genders on a 24-hour basis.
 - (d) The Office of Housing and Residence Life will designate selected facilities/apartments as co-educational by floor, wing, or alternating room/apartment. Residents will select their own visitation hours. Roommates must agree on the designated hours.
- (2) Every effort will be made to provide each resident the type of housing option requested, but the University reserves the right to defer individual assignments, if building space and student choice make this necessary.
- (3) These options for visitation shall operate in accordance with the following policies:
 - (a) Hall staff is expected to be on the premises during special events and visitation, except during times of zone coverage, during which time housing personnel will be responsible for the afternoon visitation of a specified area.
 - (b) Each guest must check in and out of the residence facilities at the lobby desk. Procedures will be determined by the Office of Housing and Residence Life.
 - (c) Each guest must be escorted from the lobby to the host/hostess' room and from the room back to the lobby to check out. Guests are not to be unattended in the hall or stairwells at any time.
 - (d) Designation of bathroom facilities: For residence facilities with individual or suite bathrooms, visitors shall use these. For those halls with specified bathrooms for members of the opposite sex, visitors shall use these. In halls with no such designation, the Hall Staff shall designate one during visitation.
 - (e) During visitation, proper conduct and decorum are important and expected of both the host/hostess and the guest(s). Guests may be asked to leave the building and/or be prohibited from visiting if found to be violating policies, damaging property, or being a potential harm to themselves or others.
 - (f) Room checks may be made by facility staff at any time during room visitation.
 - (g) In facilities that are not pre-designated as No Visitation or as Co-educational by the Office of Housing and Residence Life, the residents shall vote during Fall Move-in on their choice for visitation hours for their hall/apartment. Hall Council and/or residence facilities staff in accordance with housing personnel will decide each spring semester for the following fall on three options for hours under option (b). The three options under these plans will be called the maximum hours, medium hours, and minimum hours they would want under their designated plan. A simple majority vote is required for implementation.

- (h) Unless the Hall Council petitions to the Office of Housing and Residence Life by December 1 for a change in hours, the same hours will remain in effect for the spring semester. A Hall Council can petition to the Office of Housing and Residence Life for a change in their visitation plan for the following semester if demand dictates. A simple majority vote of the residents is required. The Office of Housing and Residence Life reserves the right to approve visitation plan changes after ascertaining the demand, usage, staffing, and occupancy rates of the hall. Also, summer/semester break visitation plans will be determined accordingly.
- (i) Visiting hours in hall lobbies not designated as 24-hours are from 9:00 a.m. to midnight, Sunday through Thursday and 9:00 a.m. to 2:00 a.m., Friday and Saturday.
- (j) Overnight guests of the same gender must be registered with the hall staff and are permitted to stay for a maximum of three consecutive nights in a thirty-day period. The roommate must approve, and there must be an unoccupied bed available in the room for each person staying overnight.
- (k) With the increased visitation privileges, there is a greater responsibility to be shared. The primary responsibility for management of the total visitation program rests with the individual resident, Hall Council, Residence Hall Association, and the residence facilities and housing staff.
- (l) All violations of the visitation policy shall be dealt with through the established judicial procedure of the Residence Hall Association, Residence Hall Judicial Board, Office of Housing and Residence Life, and East Tennessee State University. Visitation violations are to be considered serious and dealt with in that manner. Failure to comply with visitation policies may result in disciplinary action, which may include losing visitation privileges or being moved to another lifestyle option hall.
- (m) Classification of major visitation violations:
 1. Deliberate avoidance of regulations governing visitation (example: sign-in/sign-out procedures, uninvited or unescorted guests, entrance or exit from non-designated doors).
 2. Entertaining guests at times not designated or for extended periods beyond the close of visitation.
 3. Failure to comply with the rules of the Tennessee Board of Regents, East Tennessee State University, Office of Housing and Residence Life, and the Residence Hall Association.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-4-2-.05 Contract Term and Conditions is amended by adding a sentence to the end of the paragraph so that as amended paragraph (1) shall read:

- (1) After a housing assignment has been made to a prospective resident, he/she must sign a student housing contract that is legally binding for the academic year. Spring and Summer only contracts are available.

Paragraph (2) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) Initial rent payments are due at the same time as fees. Holidays and breaks are not included in the contract or rent. A person moving into a residence hall or paying rent without signing a housing contract is obligated to the terms of the contract. Students may pay residence facilities rent by the semester in three installments along with tuition and fees using the University Deferred Payment Policy which requires a minimum down payment of 50% of tuition,

fees, rent, and meal plan, along with a \$10.00 service charge for fall and spring semesters. Any payment after the grace period will include a \$25.00 late charge. Any payment plan must be arranged with the Comptroller's Office at the time rent is due. Students may choose to pay semester rent in three installments (except summer housing). The first installment is due at the time fees are due. Students may be billed seven to ten days prior to the due dates of the second and third installment with a \$5.00 service charge included with each of three payments. Any payment after the grace period will include a \$5.00 late charge. Students will be asked when paying their fees how they want to pay. All financial aid granted to students (whether grant or loan) must first be applied to tuition, room, and board, with any excess going to the recipient. Students who have financial aid (grant or loan) sufficient to pay full fees, including room rent, are not eligible for installment payments.

Paragraph (3) including subparagraphs (a) through (i) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph so that as amended paragraph (3) shall read:

- (3) A resident may request to break the housing/meal plan contract by completing the Request for Refund Form or the Request to Cancel Contract Form. A housing/meal contract may be canceled for the following reasons:
 - (a) Resident is not enrolled;
 - (b) Resident graduates;
 - (c) Resident transfers;
 - (d) Resident is participating in an academic internship which places an undue hardship upon the student to remain on campus in terms of distance;
 - (e) Resident is married during the contract period and the original marriage certificate recognized by the State of Tennessee provided for verification;
 - (f) Resident has a medical condition, confirmed in writing by a licensed medical physician, which would require them to leave the residence hall/apartment;
 - (g) Other reasons for canceling the housing/meal plan contract would necessitate an appeal process.

Paragraph (4) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (4) shall read:

- (4) If for any reasons between fall semester and spring semester the resident's situation changes after the contract has been canceled, the contract will remain in effect and the student will be charged for spring semester housing per the contract.

Paragraph (5) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the word "halls" and adding the word "facilities" so that as amended paragraph (5) shall read:

- (5) The University agrees to furnish living accommodations in one of the University residence facilities for the term of the contract. However, the University reserves the right to change resident assignments in the interest of optimal utilization of space and for health, discipline or other reasons.

Paragraph (6) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (6) shall read:

- (6) Residence facilities will open at 9:00 a.m. and close at 6:00 p.m. on the dates designated in the current University catalog for the beginning and ending of each semester. Residents will have up to twenty-four (24) hours after their last class to vacate the facilities at the end of each semester. A resident must vacate his/her room within twenty-four (24) hours after he/she officially withdraws from the University or is dismissed for academic or other reasons. During official holidays and between semesters, the University reserves the right to close all halls. Residents needing to stay on campus during these periods must obtain prior approval from the Office of Housing and Residence Life. Specific dates and procedures will be posted at the end of each semester and for holidays.

It will be the resident's responsibility to make prior arrangements with the Office of Housing and Residence Life. There may be a minimal charge for rent payable in advance. Limited space is available and residents allowed to stay on campus during breaks and holidays must move to designated spaces as assigned by housing.

Paragraph (7) of rule 0240-4-2-.05 Contract Term and Conditions is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (7) shall read:

- (7) A private room may be secured only if space is available. Residents desiring a private room must submit in writing their requests to the Office of Housing and Residence Life. When space becomes available, the resident must sign a private room agreement and pay the additional rent which is dependent upon the residence facilities. Once a resident has signed a private room agreement for that semester, the additional rent cannot be refunded if he/she decided to accept a roommate or move to another room. If a resident indicates that he/she does not wish to have a roommate, he/she will be charged for a private room.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-4-2-.06 Reservations (Deposits, Cancellation and Refund Policies) is amended by deleting the words "halls" and "Housing Office" and adding the words "facilities" and "Office of Housing and Residence Life" so that as amended paragraph (1) shall read:

- (1) Deposits carry over from year to year so that deposits do not have to be made yearly for those returning to residence facilities. The deposit which must accompany the housing application serves as a combination reservation/damage/room clearance deposit. It will be refunded, if and when all money owed by the resident to the Office of Housing and Residence Life and University is paid in full and the housing contract is fulfilled. Failure to properly check out of the residence facilities will result in forfeiture of the deposit. The deposit will be refunded in full; if the University is notified a minimum of fourteen (14) calendar days prior to the first official day of registration; if the student is prevented from entering the University because of personal medical reasons, confirmed in writing by a licensed physician; or if residence facilities space is not available. A full refund will be made in case of death. The deposit is not applied toward rental payments.

Paragraph (2) of rule 0240-4-2-.06 Reservations (Deposits, Cancellation and Refund Policies) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended paragraph (2) shall read:

- (2) If the contract is not signed and returned by the date specified, the assignment will be canceled and another student will be assigned to that space. If after the stipulated contract date, notification that an assignment is still desired is made to the Office of Housing and Residence Life, the request will be put at the bottom of the assignment list as of that date. The University reserves the right to assign residents to housing on a temporary basis.

Paragraph (3) of rule 0240-4-2-.06 Reservations (Deposits, Cancellation and Refund Policies) is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (3) shall read:

- (3) Refund of residence facilities rent after registration will be prorated on a weekly calendar basis when the student is forced to withdraw from the residence hall because of personal medical reasons confirmed in writing by a licensed physician, or at the request of the University for other than disciplinary reasons pursuant to Board of Regents rule 0240-2-6-.02(9)(a) and (9)(d). Full refund will be made in the case of the death of a student. Withdrawal for other reasons, except disciplinary reasons, will be subject to the same 75% / 25% amounts and time periods as maintenance fees. Student(s) who are suspended or expelled from the University or residence facilities are not eligible for a refund of housing rent/deposit or University tuition/fees. No refund of residence facilities rent will be made other than under these conditions.

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (1) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) Residents of apartments who for any reason terminate enrollment at the University or their eligibility status changes must vacate the apartment within three (3) days from the date of termination or status change.

Subparagraph (c) of paragraph (1) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) The University provides housing for faculty and staff only on a temporary (60-day maximum) basis, and then only when space is available. Temporary housing must be vacated by the first day of the month in which the regular fall term begins. All occupants using temporary housing are bound by the same rules and regulations as regular student occupants.

Subparagraph (a) of paragraph (2) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by adding to the last paragraph the words “in an aquarium, not to exceed ten (10) gallons)” so that as amended subparagraph (a) shall read:

- (a) University regulations and/or state laws, designed with safety in mind, prohibit possession or use of these items in Buccaneer Village: firearms, ammunition, explosives, combustion engines, combustibles, lethal weapons, firecrackers, alcohol, illegal drugs and narcotics, pets (except fish, in an aquarium, not to exceed ten (10) gallons), water beds, added door locks, and weight lifting equipment.

Subparagraph (b) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words “Housing Office” and adding the words “and Residence Life” and “Office of Housing and Residence Life” so that as amended subparagraph (b) shall read:

- (b) Violation of University and Housing and Residence Life rules and regulations will be dealt with through the Office of Housing and Residence Life staff, and/or referred through the University Disciplinary Procedures.

Subparagraph (c) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (c) shall read:

- (c) Residents must be in compliance with all rules and regulations as stated in the Tennessee Board of Regents' Student Residence Regulations and Agreements, the Buccaneer Village Handbook, and the Student handbook, Spectrum. Additional regulations relevant to residents will be made available via memoranda, flyers and/or notices.

Part 1. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the word "Assistant" and adding the word "Advisor" so that as amended part 1. shall read:

1. Warning by Resident Advisor;

Part 2. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Buccaneer Village Director" and adding the words "Complex Manager/Building Coordinator" so that as amended part 2. shall read:

2. Warning and/or conference with Complex Manager/Building Coordinator;

Part 4. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Housing and Residence Life" so that as amended part 4. shall read:

4. Conference with Housing and Residence Life Administration;

Part 6. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by adding the words "and Residence Life" so that as amended part 6. shall read:

6. Warning from Director of Housing and Residence Life (does not go in permanent file in Office of Student Affairs);

Part 7. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the part and substituting instead the following language so that as amended part 7. shall read:

7. Resident probation from Director of Office of Housing and Residence Life;

Part 8. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the part and substituting instead the following language so that as amended part 8. shall read:

8. Assigned community service hours through Volunteer ETSU;

Parts 9. and 10. of subparagraph (d) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the parts and substituting instead the following language so that as amended parts 9. and 10. shall read:

9. Dismissal from Buccaneer Village by Director of Office of Housing and Residence Life;
10. Referral to Senior Associate Vice President and Student Affairs/Dean of Students.

Subparagraph (a) of paragraph (3) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Director of Buccaneer Village" and adding the words "residence facility staff" so that as amended subparagraph (a) shall read:

- (a) A key will be issued to each resident upon checking in the apartment. If the key is lost, stolen, or misplaced, a resident may sign out a temporary key from the residence facility staff. This key can only be signed out before the lock is rekeyed and new keys made. The resident then bears the cost for rekeying the lock. Furthermore, if a resident fails to return the issued key when checking out or withdrawing, the lock will be rekeyed and the resident will be charged the cost of rekeying. Children will not be issued a key without written permission from the parent.

Subparagraph (d) of paragraph (3) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended subparagraph (d) shall read:

- (d) No outdoor construction of any type, including fences or canopies, shall be allowed without written consent of the Office of Housing and Residence Life, and no landscaping or gardening shall be permitted except as determined by the University.

Subparagraph (f) of paragraph (3) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (f) shall read:

- (f) Items or debris shall not be thrown nor swept from the windows or doors of any apartment. No refuse, loose paper, bottles, etc., shall be permitted to accumulate outside of the apartment.

Subparagraph (g) of paragraph (3) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended subparagraph (g) shall read:

- (g) The residents shall not erect an aerial or satellite dish on the premises. Residents shall display no signs, placards or banners of any type in or about the premises without the prior approval of the Office of Housing and Residence Life.

Subparagraph (a) of paragraph (4) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (a) shall read:

- (a) Guests shall not be permitted to remain an unreasonable length of time (seven (7) days) without the prior consent of the Office of Housing and Residence Life. Any individual(s) who is enrolled as a student at East Tennessee State University should be an overnight guest for no more than three (3) consecutive days in any 30-day period.

Subparagraph (b) of paragraph (5) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (b) shall read:

- (a) The failure or omission by the Office of Housing and Residence Life to terminate the contract for any cause shall not forfeit the right of the Office of Housing and Residence Life to do so later.

Paragraph (6) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended paragraph (6) shall read:

(6) Reservations (Deposit, Cancellation and Refund Policies).

The resident, in addition to paying the rental rate, shall also make a deposit for an apartment as an advance to be used toward payment for any damage to the apartment and equipment assigned to the resident, guest, or agent. The Office of Housing and Residence Life shall refund this deposit, provided the resident performs all obligations to the University, and upon the termination of the housing contract, leaves the premises in acceptable condition. (The kitchen, bathroom, and other facilities must be clean, burned out light bulbs replaced, and all keys returned).

Subparagraph (a) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended subparagraph (a) shall read:

- (a) Upon termination of the contract, the resident agrees to remove immediately all furniture and/or other personal property from the premises, and hereby appoints, and constitutes the Office of Housing and Residence Life as agent to place any of the property left on the premises in storage to sell or otherwise dispose of at the expense of the resident.

Subparagraph (b) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended subparagraph (b) shall read:

- (b) The resident agrees to notify the Office of Housing and Residence Life immediately when there is any change in the number of the family of the resident. In the event husband and wife separate for a period exceeding one (1) month, the Office of Housing and Residence Life shall be notified, and the resident shall, without further notice required by law, terminate the tenancy and vacate the premises immediately.

Subparagraph (c) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended subparagraph (c) shall read:

- (c) The University shall provide custodial service for public areas. Residents will be required to keep porch areas clean in front of their individual apartments. Custodial personnel may not enter apartments unless so authorized by the Office of Housing and Residence Life or its representatives. Residents are prohibited from using custodial personnel for the cleaning or maintenance of their apartment in any capacity whatsoever.

Subparagraph (d) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the text of the subparagraph and substituting the following language so that as amended subparagraph (d) shall read:

- (d) Automatic washer and dryers shall not be installed in the apartment; freezers may be permitted, if approved in advance in writing by the Office of Housing and Residence Life.

Subparagraph (e) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended subparagraph (e) shall read:

- (e) Clothes shall be dried only in those areas designated by the Office of Housing and Residence Life.

Subparagraph (g) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Public Safety/Office of Housing and Residence Life" so that as amended subparagraph (g) shall read:

- (g) Since solicitors or other salesmen are not allowed access to the premises except with permission from the University, the occupants are requested to notify the Public Safety/Office of Housing and Residence Life of violations of this rule.

Subparagraph (i) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that amended subparagraph (i) shall read:

- (i) Residents shall not use any facilities for heating except those provided by the University, unless prior written consent of the Office of Housing and Residence Life has been obtained.

Subparagraph (l) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by adding the words "or in overflow parking" so that as amended subparagraph (l) shall read:

- (l) Residents may not store boats, boat trailer, hauling trailer or trailers of any kind in family housing areas. Residents must make their own arrangements for storage of these items outside of the housing area or in overflow parking.

Subparagraph (m) of paragraph (7) of rule 0240-4-2-.07 Special Regulations Applicable to Buccaneer Village (Married Student Housing) is further amended by deleting the words "in running order" and adding the word "operational" so that as amended subparagraph (m) shall read:

- (m) All vehicles must be properly registered and operational. Exceptions will be made for vehicles to be repaired within 30 days. Repairs to vehicles must be accomplished in a safe manner and the area immediately around the repair site must be kept clean.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (1) of rule 0240-4-2-.08 Miscellaneous is amended by deleting the words "Housing Office" and adding the words "Office of Housing and Residence Life" so that as amended subparagraph (a) shall read:

- (a) A list of all residents residing in rooms by themselves will be posted in all residence halls. Residents will have seventy-two (72) hours in which to notify the Office of Housing and Residence Life of other residents on the list with whom they would like to room.

Subparagraph (c) of paragraph (1) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the word "housing" so that as amended subparagraph (c) shall read:

- (c) After seventy-two (72) hours, the staff will consolidate all remaining residents.

Paragraph (2) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (2) shall read:

- (2) Students should plan to check into their room/hall from 9:00 a.m. to 8:00 p.m., either on the first or second day that the halls open. Students who arrive prior to the opening of the residence facility, or who arrive after the specified check-in time, should make their own arrangements for accommodations. Students who do not check in with the

hall staff by 6:00 p.m. on the first official day of classes, or who do not notify the Office of Housing and Residence Life that they will be late, will be reassigned.

Subparagraph (d) of paragraph (3) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the word “Resident Director” and adding the words “hall staff” so that as amended subparagraph (d) shall read:

- (d) Residents must sign and date the check-out portion of the back of IIA card after all charges, if any, have been identified. For his/her protection, before signing the IIA card and after the hall staff has checked the resident’s room, the resident should line-out the damage column where damages were not indicated by the hall staff.

Subparagraph (e) of paragraph (3) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” and “properly” so that as amended subparagraph (e) shall read:

- (e) If a resident moves out of University housing during or between semesters for any reason, proper written notification must be given to the Office of Housing and Residence Life. By so doing, the resident may be entitled to a refund of reservation/damage/room clearance deposit and/or rental payments. However, to be eligible, check-out procedures must be followed properly. Notification may be accomplished by letter, or by completion of the Request for Deposit Refund Form available in the Office of Housing and Residence Life.

Subparagraph (f) of paragraph (3) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the words “Housing Office” and adding the words “Office of Housing and Residence Life” so that as amended subparagraph (f) shall read:

- (f) Residents leaving the University during the course of a semester must officially withdraw from the University through the Registrar’s Office, Room 101, Burgin E. Dossett Hall. Additionally, notification of leaving must be made directly to the Office of Housing and Residence Life by the resident.

Subparagraph (g) of paragraph (3) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the words “Resident Director” and adding the words “hall staff” so that as amended subparagraph (g) shall read:

- (g) All residents leaving University housing must remove their belongings from the residence halls and follow check-in procedures with the hall staff within twenty-four (24) hours of withdrawing during a semester and twenty-four (24) hours after their last class at the end of the semester.

Subparagraph (h) of paragraph (3) of rule 0240-4-2-.08 Miscellaneous is further amended by adding to the end of the sentence the words “and at other times by appointment only” so that as amended subparagraph (h) shall read:

- (h) Appeals from charges and general assessments will be heard between the hours of 2:00 p.m. and 4:30 p.m. during the last week of each semester and at other times by appointment only.

Paragraph (6) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the words “Resident Director” and adding the words “Office of Housing and Residence Life” so that as amended paragraph (6) shall read:

- (6) Approval must be obtained for all special events and displays held within or adjacent to the residence hall. Approval may be obtained through Office of Housing and Residence Life. All signs and other items connected with the special event must be removed and the area cleaned within forty-eight (48) hours after the event.

Paragraph (8) of rule 0240-4-2-.08 Miscellaneous is further amended by deleting the words “SAC Office” and adding the words “Office of Student Life and Leadership” so that as amended paragraph (8) shall read:

- (8) Salespersons, commercial advertising persons and/or solicitation of any kind are prohibited within and around the residence halls. Student organizations may request permission to sell in the lobby area only by contacting the Office of Student Life and Leadership.

Authority: T.C.A. §49-8-203.

(01-07)

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

Paragraph (2) of rule 0240-3-3-.04 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (2) shall read:

- (2) Applicability of TUAPA. The procedures described under the Tennessee Uniform Administrative Procedures Act represent an alternative route when the alleged misconduct is such that the University seeks to impose a penalty of (1) suspension or expulsion from the University for disciplinary reasons, or (2) revocation of registration of a student organization during the term of the registration. In such cases, the student elects the procedures of his or her choice.

Authority: T.C.A. §49-8-203.

Paragraph (7) of rule 0240-3-3-.06 Judicial Procedures is amended by adding a new subparagraph (h). New subparagraph (h) shall read:

- (h) Interim Suspension. Any or all of the activities of a student organization may be temporarily suspended while the organization is under investigation or engaged in the disciplinary hearing process for alleged violations of University rules and regulations. Student organizations are subject to interim suspension under one or more of the following conditions:
1. When the continued activity of the organization poses a substantive threat of further violations of University rules or regulations and/or state or federal law.
 2. When the continued activity of the organization poses a substantive threat of the creation of a condition that endangers the health, safety, or property of the University or members of the University community.
 3. When the continued activity of the organization poses a substantive threat of disruption of or interference with the normal operations of the University.

The Judicial Officer and/or the Associate Dean for Leadership and Involvement may recommend to the Assistant Vice President for Student Life/Dean of Students that a student organization should receive an interim suspension. The Assistant Vice President may consult with whomever he or she deems appropriate prior to making a decision to implement an interim suspension, but a hearing is not required. If the

Assistant Vice President deems it necessary to implement an interim suspension, the organization shall be notified in writing of the decision. In cases involving an interim suspension, the organization is entitled to a hearing within ten (10) days of the first day of the suspension. The interim suspension of a student organization shall continue until the disciplinary process is concluded or the Assistant Vice President for Student Life/Dean of Students determines that the interim suspension is no longer necessary.

4. Subparagraph (a) of paragraph (6) of rule 0240-3-3-.09 Traffic and Parking Regulations is amended by deleting the words "Social Security" and substituting instead the words "University ID" so that as amended subparagraph (a) shall read:

Administration. Regardless of the University status or classification of the violator, citations are to be paid or appealed within fifteen (15) working days of the date of mailing the first invoice from the Bursar. Citations may be paid by appearing at the Bursar's Office (177 Administration Building) with the violator's copy of the citation or by mailing a check to the Bursar's Office, PO Box 1000, Department 313, Memphis, Tennessee 38148-0313, accompanied by the violator's copy of the citation. If the violator's copy has been lost or destroyed, a copy can be obtained from the parking office. Please include your University ID Number on the check or money order.

- (3) Subparagraph (d) of paragraph (6) of rule 0240-3-3-.09 Traffic and Parking Regulations is further amended by deleting the words "3918 Central Avenue" and substituting instead the words "120 Zach Curlin Parking Garage" so that as amended subparagraph (d) shall read:
 - (d) Faculty/staff employee appeals. If a faculty/staff employee believes he/she has justification, an appeal may be filed with the Faculty/Staff Appeals Committee. Appeal forms may be obtained and filed in the Parking Office, 120 Zach Curlin Parking Garage. Outstanding fines for faculty/staff employees will be recouped pursuant to Tennessee Board of Regents Guideline B-010.

Authority: T.C.A. §49-8-203.

(01-08)

MIDDLE TENNESSEE STATE UNIVERSITY

CHAPTER 0240-3-4 STUDENT DISCIPLINARY RULES

AMENDMENTS

Subparagraph (r) of paragraph (2) of rule 0240-3-4-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (r) and new parts 1. through 4. shall read:

- (r) Academic Misconduct. Plagiarism, cheating, fabrication, or facilitating any such act. For purposes of this section, the following definitions apply:
 1. Plagiarism. The deliberate adoption or reproduction of ideas or words or statements of another person as one's own without proper acknowledgment.

2. Cheating. Intentionally using or attempting to use unauthorized materials, information, or study aids in any academic exercise. The term academic exercise includes all forms of work submitted for credit or hours.
3. Fabrication. Intentional or unauthorized falsification or invention of any information or citation in an academic exercise.
4. Facilitation. Intentionally or knowingly helping or attempting to help another to violate a provision of the institutional code of academic misconduct.

Subparagraph (t) of paragraph (2) of rule 0240-3-4-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (t) shall read:

- (t) Attempts and Aiding and Abetting the Commission of Offenses. Any attempt to commit any of the offenses listed under this section, or the aiding and abetting of the commission of any of the offenses listed under this section (an attempt to commit an offense is defined as the intention to commit the offense coupled with the taking of some action toward its commission).

Subparagraph (bb) of paragraph (2) of rule 0240-3-4-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph in its entirety and relettering the subsequent subparagraphs accordingly.

Authority: T.C.A. §49-8-203.

Subparagraph (d) of paragraph (2) of rule 0240-3-4-.03 Disciplinary Sanctions is amended by deleting the words “to the University” and adding the word “community” so that as amended subparagraph (d) shall read:

- (d) Community Service Hours. A student may be required to perform specified tasks of community service under the supervision of a University official.

Part 3. of subparagraph (j) of paragraph (2) of rule 0240-3-4-.03 Disciplinary Sanctions is further amended by deleting the text of the part so that as amended part 3. shall read:

3. A preliminary hearing will be held by a designee of the dean of Student Life in consultation with appropriate University officials within four (4) working days of the interim or summary suspension to determine if the interim suspension should continue until a formal hearing of the charges by a University adjudicating body can be held.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-4-.04 Disciplinary Procedures is amended by adding the words “the due process rights of all students and the” so that as amended paragraph (1) shall read:

- (1) Generally. The following information describes the due process rights of all students and the procedures followed by University officials in the administration of discipline. The term student shall be construed to include a registered student organization wherever the term appears in the procedures. Those procedures described under University Procedures are available to a student anytime he or she is alleged to have violated a University rule.

Paragraph (2) of rule 0240-3-4-.04 Disciplinary Procedures is further amended by deleting the words “a program, or a course” so that as amended paragraph (2) shall read:

- (2) Applicability of TUAPA. The procedures described under the Tennessee Uniform Administrative Procedures Act represent an alternative route when the alleged misconduct is such that the University seeks to impose a penalty of (1) suspension or expulsion from the University for disciplinary reasons, or (2) revocation of registration of a student organization during the term of the registration. In such cases, the student elects the procedures of his or her choice.

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

- (b) Reports of acts and incidents involving students may be referred for evaluation and possible disciplinary action by the Department of Public Safety, Residence Hall staff members, faculty, students, and other members of the University community. Reports should be directed to the Assistant Dean for Judicial Affairs and Mediation Services located in the Keathley University Center, Room 126.

Part 1. of subparagraph (k) of paragraph (6) of rule 0240-3-4-.04 Disciplinary Procedures is further amended by deleting the part including subparts (i) through (iv) and substituting the following language so that as amended part 1. shall read:

1. Structure of the Judicial System. The student judicial system of Middle Tennessee State University consists of the following components:
 - (i) The Student Supreme Court shall hear cases referred to it by the dean of Student Life. In these cases, the Court makes its recommendation to the dean of Student Life or his/her designee.
 - (ii) The Student Traffic Court shall hear cases appealing traffic and parking citations. The decision of the Student Traffic Court will be final in such cases. Student Justices are appointed by the president of the Student Government Association with the consent of the Student Senate.
 - (iii) The University Discipline Committee hears cases referred to it by the dean of Student Life and makes its recommendations to the vice president for Student Affairs. Members of the University Discipline Committee are appointed by the University president.
 - (iv) The Student Appeals Committee shall hear (1) appeals in cases heard by the University Discipline Committee, (2) appeals in original cases heard by the Student Supreme Court, (3) adverse decisions regarding the initial or continued registration of student organizations, (4) appeals of decisions resulting from the interpretation and application of the Family Educational Rights and Privacy Act by institutional agencies and officials, and (5) appeals of decisions regarding classification of students for fee paying purposes. Members of the Student Appeals Committee are appointed by the University president.
 - (v) Any member of one of the aforementioned judicial bodies may be removed from its membership for cause, as shall be determined by the discretion of the members of that body. In no case shall a student be tried by a judicial body of which he or she is a member.
- (3) Recommendations. Recommendations by the Student Supreme Court and the University Discipline Committee will be reviewed by the appropriate approving authority and are subject to the following alternatives: (1) the recommended sanction may be affirmed, (2) the decision may be reversed (overruled), or (3) the case may be returned to the original judicial body for reconsideration of the sanction(s) only (a finding of responsibility will not be reconsidered).

Part 1. of subparagraph (l) of paragraph (6) of rule 0240-3-4-.04 Disciplinary Procedures is further amended by deleting the text of the part and substituting instead the following language so that as amended part 1. shall read:

1. Generally. Only an individual who has been suspended or expelled as the result of disciplinary action has the right to appeal.

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is amended by adding new parts 6., 7., and 8. New parts 6., 7., and 8. shall read:

6. Purple – Available to residents of Womack Lane Apartments only;
7. Red – Available to residents of Scarlett Commons only;
8. Gold – Available to residents of Greek Row only.

Subparagraph (d) of paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by adding a sentence to the end of the subparagraph so that as amended subparagraph (d) shall read:

- (d) Vehicles are not to be parked at any time where parking is not designated, where curbing is painted yellow, where sidewalks intersect streets, on sidewalks, across parking lines, on campus lawns (grass), or other places where signs indicate no parking. Parking is allowed only in clearly designated parking spaces. Vehicles that are parked or waiting in a fire lane will be towed. In gravel lots, legal parking spaces are designated by concrete bumper blocks, except for those painted yellow.

Paragraph (2) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by adding a new subparagraph (n). New subparagraph (n) shall read:

- (n) No recreational vehicles such as boats, jet skis and all terrain vehicles and their travel trailers should be parked or stored on campus property, except for equipment purchased by academic/administrative departments for University related purposes.

Subparagraph (a) of paragraph (6) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (a) shall read:

- (a) Any student other than one holding a faculty/administrative/staff permit who receives a parking/traffic citation may appeal the citation within seven (7) days of issuance by going to the SGA web site at <http://SGA.MTSU.EDU>. Those students holding faculty/administrative/staff permits may appeal according to subsection (b).

Subparagraph (b) of paragraph (6) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (b) shall read:

- (b) Any employee or student holding a faculty/administrative/staff permit who receives a citation may appeal the citation within seven (7) days of issuance by filing an appeal form or by going to the Parking Services web site at www.MTSU.edu/parking. (The department head of the department where the employee/student is employed has the necessary form, or an appeal form may be obtained at the Parking Services Office.) Attach the citation to the appeal and forward to Parking Services, P.O. Box 147. The MTSU Parking and Traffic Committee will handle disposition of the appeal.

Subparagraph (b) of paragraph (7) of rule 0240-3-4-.06 Traffic and Parking Regulations is further amended by deleting the words “free of charge” and substituting instead the words “at a cost of \$1 per page” so that as amended subparagraph (b) shall read:

- (b) A copy of the accident report will be furnished to all involved parties at a cost of \$1 per page. The copy may be secured at the Department of Public Safety, Monday through Friday, 8:00 a.m. – 4:00 p.m.

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is amended by deleting the words “Permit purchase” and substituting instead the words “The issuance of permits” so that as amended subparagraph (b) shall read:

- (b) All students (including part-time, full-time, graduate students, night student, etc.), administrators, faculty, and staff whether full- or part-time intending to park a vehicle on campus must purchase a permit through Parking Services and place the permit on or in the vehicle being operated. The issuance of permits will be limited to one permit per person with the exception of Womack Lane Apartment residents who will be allowed two permits per family. All registrants will be responsible for their issued permit throughout the academic year (August 16 through the following August 15).

Subparagraph (c) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by deleting the word “purchaser” and substituting instead the word “registrant” so that as amended subparagraph (c) shall read:

- (c) The registrant of a permit will be responsible for parking violations received by any vehicle bearing the purchased parking permit. Permits may only be used by the permit holder registered with Parking Services. Dependents, friends, and/or associates of any authorized permit holder are not authorized to use that person’s permit while parking for their personal convenience.

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

- (e) Fees are non-refundable. Students are eligible to receive a student parking permit upon payment of all registration fees during the Fall and Spring semesters. Any student who attends the Summer semester and does not have a valid permit must purchase a parking permit at the Parking Services Office. Faculty and staff permits are payable at the Parking Services Office. The Parking Services Office is located in the Tennessee Livestock Center parking lot, and open during normal business hours (7:30 a.m. – 4:30 p.m.).

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

1. White – Available to Faculty/Administrators/Staff (including resident directors and graduate assistants). White permits are also permitted in Green parking areas.

NOTE: Parking permits will be denied for faculty/administration/staff who have outstanding fines from prior semester(s) until they are paid in full. The first fine after permit expiration will result in towing of vehicle.

Subparagraph (f) of paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by adding new parts 5., 6., and 7. New parts 5., 6., and 7. shall read:

5. Purple – Available to residents of Womack Lane Apartments only;
6. Red — Available to residents of Scarlett Commons only;
7. Gold – Available to residents of Greek Row only.

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

1. Persons must have a physician's statement certifying a mobility impairment as defined in State Law 55-21-102. Persons with a state-issued license plate or placard are exempt from having a physician's statement, but must prove ownership of a state-issued plate or placard. Persons must have a Middle Tennessee State University disabled parking permit to ensure access to privileges and rights of an MTSU student or employee.

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

2. Applications will be submitted to the Parking Services Office, who will determine the need or lack of need of a permit for a student or employee.

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

- (n) All residents of Womack Lane Apartments, Scarlett Commons, and Greek Row are required to obtain a parking permit according to their resident area. A maximum of two permits may be obtained by any family residing at Womack Lane Apartments.

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

- (o) Any resident of Womack Lane Apartment, Scarlett Commons, and Greek Row who holds a valid blue or white parking permit is also required to receive a special validation sticker that is to be placed adjacent to the MTSU parking permit. This validation sticker may be received through the director of Womack Lane Apartments, Scarlett Commons, or Greek Row. The validation sticker will be issued free of charge. There will be a different validation sticker for each resident area.)

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

- (q) If an individual with a current permit receives a citation for violation of (l), the citation will be cancelled only if the citation is taken to the Parking Services Office within seven (7) class days of issuance of the citation, and the violator can show the current permit at that time. (Vehicle must be parked in designated parking areas according to permit color for citation to be cancelled). No more than three (3) such citations will be cancelled per semester. (Note: In the event that a vehicle receives more than one "No Campus Permit" ticket during a calendar day, those tickets will be reviewed as one offense.) A class day is considered Monday through Friday, unless it is an official University holiday for faculty, staff, and/or students.

Paragraph (1) of rule 0240-3-4-.07 Registration of Motor Vehicles is further amended by adding new subparagraphs (s) and (t). New subparagraphs (s) and (t) shall read:

- (s) Any resident of Womack lane Apartments, Scarlett Commons, or Greek Row who holds a valid MTSU white parking permit may park in any legal white or green permit parking area.
- (t) Any resident of Womack Lane Apartments, Scarlett Commons or Greek Row who holds a valid MTSU parking permit may park in any legal green parking permit area during the Summer session time period of May 15 through August 15. At all other time periods, residents must park in the housing area in which they reside or in the designated overflow parking areas that are announced by public notice by the Parking Services office.

Authority: T.C.A. §49-8-203.

MIDDLE TENNESSEE STATE UNIVERSITY

CHAPTER 0240-4-4 STUDENT HOUSING RULES

AMENDMENTS

Paragraph (9) of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (9) shall read:

- (9) Prohibited Items. The following items are prohibited in residence hall rooms or single student apartments: personal air conditioners, ice boxes, unauthorized refrigerators, exterior aerials or antennas, heavy electrical appliances, personal stoves, extension cords, halogen lamps, candles, incense, firearms, explosives, fireworks, inflammable fluids, slingshots, paint ball guns, super soakers, dangerous chemical mixtures, pellet guns, B.B. guns, propelled missiles, alcoholic beverages, and illegal drugs or paraphernalia.

Alcoholic Beverages. No alcoholic beverages are permitted on the campus of Middle Tennessee State University.

Illegal Drugs. The use, possession, or sale of illegal drugs is prohibited on the campus of Middle Tennessee State University. Any resident who is found responsible for these infractions of the prohibitions on illegal drugs will be immediately evicted from the residence hall system and not permitted to reside on-campus.

Paragraph (11) of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is amended by adding the words “fire escapes” so that as amended paragraph (11) shall read:

- (11) Bicycles. Parking bicycles, mopeds, and motorcycles is not permitted in hallways, stairways, outside walkways, fire escapes, or lobbies of the residence halls. Bicycles may be kept in residence hall room provided they do not block entrances or exits.

Paragraph (13) of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is further amended by adding the words “paint ball guns” and “super soakers” so that as amended paragraph (13) shall read:

- (13) Firearms, Explosives, Fireworks, and Inflammables. The possession of use of firearms, slingshots, paint ball guns, super soakers, explosives, fireworks, inflammable fluids, dangerous chemical mixtures, pellet guns, B.B. guns, or propelled missiles is prohibited.

Paragraph (17) of rule 0240-4-4-.03 Residence Hall Conduct and Disciplinary Sanctions is further amended by deleting the words “during designated periods” and substituting instead the words “with the Housing Office” so that as amended paragraph (17) shall read:

- (17) Students may submit requests for room changes with the Housing Office. Students moving out of or into a residence hall without having written authorization from Housing and Residential Life will be in violation of the housing contract. Changes within the building may be authorized by the area coordinator or designee. All changes are authorized on a space-available basis.

Authority: T.C.A. §49-8-203.

Rule 0240-4-4-.05 Visitation Policy is amended by adding new subparagraphs (7) through (12) so that as amended new subparagraph (7) through (12) shall read:

- (7) A register will be maintained at each residence hall front desk that has twenty-four (24) hour staff. Residents having guests of the opposite sex are responsible for seeing that their guests provide identification and sign the register when entering and leaving the hall as directed by their residence hall staff.
- (8) Each guest must be escorted from the lobby to the room he or she is visiting and from the room back to the lobby by the host or hostess. Guests are not to wander in the residence halls nor are they permitted in community restrooms on the floor(s). If escorted at all times by the host or hostess, guests are permitted in TV lounges and study rooms.
- (9) Room checks may be made any time during visitation by residence hall personnel. Violations of Visitation Guidelines will be reported to the appropriate area coordinator of the participating hall. Disposition of such cases will be treated in the same manner as other violations of University regulations.
- (10) There will be no more than a total of five (5) guests in a room at a given time except in cases where guests are members of the resident's immediate family.
- (11) Residents and guests must be properly attired in apparel suitable for class or street wear.
- (12) Any student who violates visitation policies may lose subsequent visitation privileges, as well as incur other disciplinary action.

Authority: T.C.A. §49-8-203.

(01-09)

TENNESSEE STATE UNIVERSITY

CHAPTER 0240-3-5 STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (2) of rule 0240-3-5-.02 Disciplinary Offenses is amended by adding a new subparagraph (l) and relettering the subsequent subparagraphs accordingly. New subparagraph (l) shall read:

- (l) Misuse of computers or computing resources. Computing resources at the University exist for the purpose of education, research, services and administration. Users are authorized to use the computer facilities for those purposes that conform to the goals and objectives of TSU. The use of computing resources for any purpose other

than a purpose for which they are intended is an act of misconduct. The University's Code of computing Practice is herein incorporated.

Authority: T. C.A. §49-8-203.

Paragraph (3) of rule 0240-3-5-.05 Disciplinary Procedures is amended by deleting the words "a program, or a course" so that as amended paragraph (3) shall read:

- (3) Tennessee Uniform Administrative Procedures Act. All cases which may result in (i) suspension or expulsion of a student from the institution for disciplinary reasons, (ii) revocation of registration of a student organization during the terms of the registration are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act and shall be processed in accordance with the Uniform Contested Case Procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with university procedures established by these rules.

Authority: T.C.A. §49-8-203.

(01-10)

CHATTANOOGA STATE TECHNICAL COMMUNITY COLLEGE

CHAPTER 0240-3-7 STUDENT DISCIPLINARY RULES

AMENDMENTS

Subparagraph (j) of paragraph (2) of rule 0240-3-7-.04 Student Code of Conduct is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Use, possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Chattanooga State Drug-Free Schools and Communities Policy Statement.

Subparagraph (k) of paragraph (2) of rule 0240-3-7-.04 Student Code of Conduct is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Unlawful use, possession, distribution, sale or manufacture, of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or "over the counter" drugs on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Chattanooga State Drug-Free Schools and Communities Policy Statement.

Authority: T.C.A. §49-8-203.

Paragraph (1) of rule 0240-3-7-.07 Sanctions is amended by adding a new subparagraph (h). New subparagraph (h) shall read:

- (h) Mandatory participation in, and satisfactory completion of, a drug or alcohol abuse program, or rehabilitation program.

Authority: T.C.A. §49-8-203.

(01-11)

**TENNESSEE TECHNOLOGICAL UNIVERSITY
CHAPTER 0240-3-6
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Rule 0240-3-6-.09 Sexual Assault Policy is being added as a new rule. New rule 0240-3-6-.09 shall read:

- (1) Tennessee Technological University (TTU) will not tolerate sexual assault. TTU recognizes that all individuals have the right to study, reside, and work in an environment free from sexual assault. Accordingly, TTU prohibits sexual assault as defined by state law. Actions that result in charges of sexual assault under this policy will be subject to University disciplinary action. They may also subject a student to criminal and/or civil liability under state law.

TTU will make every effort to see that the victim is notified of existing on- and off-campus counseling, medical and other student services for victims of sexual assault. TTU will make every effort to see that the victim is notified of his/her options to report the sexual assault to the proper law enforcement authorities, including the TTU Police Department and/or the Cookeville Police Department, and/or to the Dean of Students. Differing levels of confidentiality will exist depending on the choices made by the victim.

- (a) What to Do if You Have Been Sexually Assaulted

- (i) Get to a safe place immediately.
- (ii) Call someone who can be with you.

If you do not want to call a friend or family member to be with you then either call TTU Police, 372-3234, who will contact a campus advocate to be with you or call Genesis House's Sexual Assault Response Center, 528-4679, or 1-800-707-5197, from outside Cookeville and in the 14 county Upper Cumberland area, who will provide someone who can discuss medical, legal and counseling options.

- (iii) Take care to preserve all physical evidence.

If possible do not bathe, shower, douche, eat, drink, smoke, urinate, brush your teeth, or change your clothes. Do not disturb anything in the area where the assault occurred. You may destroy evidence. If you have changed your clothes, take the clothes you were wearing at the time of the rape to the hospital in a paper bag. (Plastic may destroy evidence). It is important to appropriately preserve evidence for the proof of a criminal offense.

(iv) Seek medical attention.

You may have sustained injuries from the attack or contracted a sexually transmitted disease; therefore, the sooner you seek medical attention the better. Student Health Services, 372-3320, can provide medical care, but not evidence collection, during the hours of 8:00 a.m. until 5:00 p.m., Monday through Friday, when TTU is in session. At any time, Cookeville Regional Medical Center, 528-2541, can provide both medical care and evidence collection. Also, at any time within the first 72 hours, Genesis House's Sexual Assault Response Center can provide, at no cost, evidence collection. It is important to appropriately preserve evidence for the proof of a criminal offense.

(v) Seek follow-up counseling.

Whether or not you immediately report the assault or prosecute, a trained counselor can help you deal with the emotional trauma of an assault. You may call the University Counseling Center, 372-3331, during office hours, and ask to speak with a counselor. The University Counseling Center will also have information concerning off-campus counseling services that are available for you – sometimes available free of charge.

(b) Dealing with the Aftermath: Survivor Assistance

The Dean of Students can assist any student who is the victim of a sexual assault in notifying law enforcement, in obtaining medical assistance, and in pursuing counseling. If a student requests a change in his/her academic or on-campus living situation, then the University will accommodate the student's request if those changes are reasonably available.

(c) What You Need to Know About Reporting the Sexual Assault

There are several options available to a student who was sexually assaulted by another student. In addition to bringing charges against the perpetrator in criminal or civil court, the survivor may also seek recourse through the University disciplinary process. If a student was sexually assaulted by a non-student, the University disciplinary process is not an option. Victims are encouraged to report the sexual assault as a crime and/or as a violation of the TTU Student Conduct Code so the perpetrator can be stopped and to alert the TTU campus community of potential danger.

(d) University Disciplinary Procedures

Sexual Assault, in addition to being a violation of state law, also is a violation of the TTU Student Conduct Code. If a survivor initiates campus disciplinary action, both the accuser and the accused will be informed of the following:

1. The accuser and the accused are entitled to the same opportunities to have others present during the hearing.
2. Both the accuser and the accused will be informed of the outcome of any institutional disciplinary hearing brought alleging a sex offense.

In order to bring charges of sexual assault against another student, a student must initiate the judicial process by contacting the Dean of Students Office, 372-3237. If the accused student is found guilty of the alleged sexual assault, suspension or expulsion from the University may occur. For more information about the University disciplinary process, please refer to the TTU Student Handbook.

(e) The Accuser's Rights

During the course of the disciplinary proceeding, the accuser has the following rights:

1. To meet with the Dean of Students to discuss the disciplinary process.
2. To submit a written account of the alleged incident.
3. To be advised of the date, time, and location of the disciplinary hearing, and to request rescheduling of the hearing for a good cause.
4. To be accompanied by an advisor of the accuser's choosing, in accordance with TTU's Disciplinary Guidelines, during the hearing process, although the advisor will not be permitted to speak for the accuser during the hearing.
5. To testify as a witness during the hearing.
6. To decline to testify, with the knowledge that such action could result in dismissal of the University's charges for lack of evidence.
7. To submit a written impact statement to the hearing panel for consideration during the sanctioning phase of the disciplinary process.

(f) Criminal / Civil Court

If a life-threatening emergency exists and you are on campus, call 911, the TTU Police Department will respond to your call. If you are off campus and call 911, the Cookeville Police Department, or another appropriate agency will respond to your call. By calling the police, you are reporting that a crime was committed against you as well as seeking the protection of the police. A decision to proceed in Civil Court is a personal matter.

(g) Educational Programs

The University provides the following activities aimed at promoting awareness of sex offenses and aimed at preventing sex offenses:

1. Lectures/workshops in the University Center open to all students and employees.
2. Programs in the Residence Halls.
3. Programs in the Tech Village Apartments
4. Presentations during New Student Orientation.
5. Discussions in the classroom presented by faculty, staff or administrators.
6. Presentations to Greek members.
7. Videotapes available to faculty for classroom presentations.
8. Articles in the student newspaper.

- 9. Resources in the Women's Center.
 - 10. Posters on campus bulletin boards.
 - 11. Safety walks on the campus.
 - 12. Clothesline Project
- (h) CrimeStoppers

To report any criminal activity and remain anonymous, call CrimeStoppers, 520-STOP.

Authority: T.C.A. §49-8-203.

AMENDMENTS

Subparagraph (b) of paragraph (2) of rule 0240-3-6-.02 Disciplinary Offenses is amended by adding a new subparagraph (b) and relettering the subsequent subparagraphs accordingly so that as amended subparagraph (b) shall read:

- (b) Sexual Assault. Any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (2) of rule 0240-3-6-.05 Disciplinary Procedures is amended by deleting the words "a program, or a course" so that as amended subparagraph (b) shall read:

- (a) Tennessee Uniform Administrative Procedures Act. All cases which may result in (I) suspension or expulsion of a student from the institution for disciplinary reasons, or (ii) revocation of registration of a student organization during the term of registration are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with institutional procedures established by these rules.

Paragraph (7) of rule 0240-3-6-.05 Disciplinary Procedures is further amended by deleting the title of the paragraph and substituting instead the following so that as amended the title of paragraph (7) shall read:

- (7) HEARINGS CONDUCTED BY THE DEAN OF STUDENTS.

Authority: T.C.A. §49-8-203.

TENNESSEE TECHNOLOGICAL UNIVERSITY**CHAPTER 0240-4-6
STUDENT HOUSING RULES****AMENDMENTS**

Paragraph (2) of rule 0240-4-6-.01 Eligibility is amended by adding a sentence to the end of the paragraph so that as amended paragraph (2) shall read:

- (2) The University policy requires students to live in residence halls until all available space has been assigned, beginning with freshman, and proceeding through the classifications accordingly, sophomores, juniors, and seniors. Based on current available space, the University residency requirement places emphasis on students who have not completed four semesters of college coursework post high school graduation.

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

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

Paragraph (5) of rule 0240-4-6-.01 Eligibility is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (5) shall read:

- (5) A student who does not comply with the University residency requirement, after having been informed, will be assigned a room in one of the University residence halls, is responsible for full payment of rent, and may be subject to disciplinary action for living off-campus without authorization.

Authority: T.C.A.. §49-8-203.

Paragraph (6) of rule 0240-4-6-.03 Resident Responsibilities is amended by deleting the entire text of paragraph (6).

Authority: T.C.A.. §49-8-203.

Paragraph (5) of rule 0240-4-6-.04 Visitation Policy is amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (5) shall read:

- (5) All guests must register upon entering and leaving the residence hall. Residents must be present at sign-in and sign-out and must escort their guest to and from their room. Guests may only visit the room indicated at sign-in.

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

- (6) Residence hall visitation nights and hours are established by the Office of Residential Life based on results of students surveyed preferences. Visitation guidelines are posted in all lobbies.

Authority: T.C.A.. §49-8-203.

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

1. Written cancellation is received in the Office of Residential Life prior to the establishment of an official check-in date.

Part 1. of subparagraph (d) of paragraph (1) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the text of the part and substituting instead the following language so that as amended part 1. shall read:

1. Refunds of apartment rent after move-in will be prorated on a daily basis and a thirty (30) day notice will be waived when the student is forced to withdraw from the apartment:

Subparagraph (d) of paragraph (1) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by adding new parts 2. and 3. so that amended new parts 2. and 3. shall read:

1. Refund of rent paid in excess of thirty (30) days required notice will be at a prorated amount.
3. A full month's refund will be made in the event of the death of the student.

Paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the word (Contracts) and substituting instead the word (Agreement) so that as amended paragraph (2) shall read:

- (2) Student Residence Hall Agreement

Subparagraph (a) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the word (contract) and substituting instead the word (agreement) so that as amended subparagraph (a) shall read:

- (a) Any student residence hall agreement shall terminate at the discretion of the University in the event of any of the following:

Subparagraph (c) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the word (contract) and substituting instead the word (agreement) so that as amended subparagraph (c) shall read:

- (c) A student may be released from this residence hall agreement after the effective date of the agreement by:

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

- (d) Refund of advance payment. Refund of the advance payment will be made under the following conditions:

Part 1. of subparagraph (d) of paragraph (2) of rule 0240-4-6-.06 Reservations (Deposit, Cancellation and Refund Policies) is further amended by deleting the word (contract) and substituting instead the word (agreement) so that as amended part 1. shall read:

- 1. written cancellation is received in the Office of Residential Life by August 1 for Fall Semester and/or academic year, December 15 for Spring Semester, and May 15 for Summer Semester for the initial semester the residence hall agreement becomes effective.

Authority: T.C.A., §49-8-203.

Part 1. of subparagraph (e) of paragraph (2) of rule 0240-4-6-.07 Miscellaneous is amended by deleting the text of the part and substituting instead the following language so that as amended part 1. shall read:

- 1. Refunds of residence hall rent after the first official day of hall opening for the initial semester the agreement becomes effective will be prorated on a weekly calendar basis when the student is forced to withdraw from the residence hall:

Paragraph (1) of rule 0240-4-6-.07 Miscellaneous is further amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended paragraph (1) shall read:

- (1) Appliances approved for residence hall use are television sets, computer, radios with self-contained antennas, VCR's, electric razors, irons with auto shut-off feature, coffee makers, hot air popcorn poppers, crock-pots, clocks, hair dryers, lamps, heating pads, electric blankets, approved microwave ovens, and fans are permitted in rooms provided their use does not disturb other residents and their state of repair is not a fire hazard. If an electrical problem develops and becomes persistent, the University will have no alternative but to request the removal of the item or items.

Paragraph (8) of rule 0240-4-6-.07 Miscellaneous is further amended by deleting the last paragraph so that as amended paragraph (8) shall read:

- (8) Weapons are not allowed in the residence hall or apartment units or grounds.

Rule 0240-4-6-.07 Miscellaneous is further amended by adding a new paragraph (9). New paragraph (9) shall read:

- (9) All open flame items, such as candles and incense, are not allowed to be used in the residence halls.

Rule 0240-4-6-.07 Miscellaneous is further amended by adding new paragraphs (10) through (16). New paragraphs (10) through (16) shall read:

- (10) The construction of loft beds is not permitted.
- (11) Parties of six or more people including residents are not allowed in students' residence hall rooms.
- (12) Open lobby hours are defined as Sunday — Thursday, 7:00 a.m. to midnight and Friday and Saturday, 7:00 a.m. — 2:00 a.m.
- (13) Bouncing of basketballs, skate boarding, use of paint ball guns, Frisbee throwing, throwing darts, roller blades, golf, use of archery equipment, water sports, playing catch or any other similar activities or games inside or in close proximity to the halls and respective parking lots are prohibited.
- (14) Cohabitation in University residence halls is not permitted.
- (15) Quiet hours for residence halls are 10:00 p.m. to 10:00 a.m. during which all noise must be contained within individual student rooms. At all other times, courtesy hours are in effect.
- (16) Smoking is not permitted in public areas of residence halls.

Authority: T.C.A. §49-8-203.

(01-12)

CLEVELAND STATE COMMUNITY COLLEGE

CHAPTER 0240-3-8 STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (4) of rule 0240-3-8-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (4) shall read:

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

Authority: T.C.A. §49-8-203.

(01-13)

COLUMBIA STATE COMMUNITY COLLEGE**CHAPTER 0240-3-9
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Subparagraph (a) of paragraph (3) of rule 0240-3-9-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended subparagraph (a) shall read:

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

Authority: T.C.A. §49-8-203.

(01-14)

DYERSBURG STATE COMMUNITY COLLEGE**CHAPTER 0240-3-10
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Paragraph (4) of rule 0240-3-10-.05 Disciplinary Procedures is amended by deleting the words “a program or a course” so that as amended paragraph (4) shall read:

- (4) “Tennessee Uniform Administrative Procedures Act.” All cases which may result in (i) suspension or expulsion of a student from the institution for disciplinary reasons or (ii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the “Tennessee Uniform Administrative Procedures Act” and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his/her case disposed of in accordance with College procedures by these rules.

Authority: T.C.A. §49-8-203.

(01-15)

JACKSON STATE COMMUNITY COLLEGE**CHAPTER 0240-3-11
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Paragraph (1) of rule 0240-3-11-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (1) shall read:

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

Authority: T.C.A. §49-8-203.

(01-16)

ROANE STATE COMMUNITY COLLEGE**CHAPTER 0240-3-13
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Subparagraph (j) of paragraph (2) of rule 0240-3-13-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages. The use, possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution (Roane State Community College); at an institution sponsored event; on property owned or controlled by an affiliated clinical site is prohibited. This includes any violation of any term of the Roane State Community College Drug Free Schools and Communities Policy Statement (RSCC Policy No. GA-21-03). Communities Act of 1989 is distributed to each student annually.

Subparagraph (k) of paragraph (2) of rule 0240-3-13-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Drugs. The unlawful use, possession, distribution, sale or manufacture, of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the institution; at an institution sponsored event, on property owned or controlled by an affiliated clinical site is prohibited. This included any violation of

any term of the Roane State Community College Drug Free Schools Communities Policy Statement (RSCC Policy No. GA-21-03). The Drug Free Schools and Communities Act of 1989 is distributed to each student annually.

Paragraph (3) of rule 0240-3-13-.02 Disciplinary Offenses is further amended by deleting the text of the paragraph and substituting instead the following language so that as amended paragraph (3) shall read:

- (3) Disciplinary action may be taken against a student for violations of the foregoing Regulations which occur on property owned or controlled by the institution; at an institution sponsored event; on property owned or controlled by an affiliated clinical site, when the conduct impairs, interferes with or obstructs any institutional activity or the missions, processes and functions of the institution. In addition, disciplinary action may be taken on the basis of any conduct, on or off campus, which poses a substantial threat to persons or property within the institutional community. In cases where alcohol and drug violations occur, disciplinary action, as well as the decision whether to test for alcohol or drugs, will be processed through the office of the Dean of Student Services.

Authority: T.C.A. §49-8-203.

Subparagraph (i) of paragraph (2) of rule 0240-3-13-04 Disciplinary Sanctions is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (i) shall read:

- (i) Counseling or Rehabilitative Treatment. Counseling sessions with Roane State's counseling office personnel or outside sources may be recommended for students with varying psychological needs. In addition, violations of drug or alcohol rules will result in mandatory participation in, and satisfactory completion of, a drug or alcohol abuse program, or rehabilitation program.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-13-.05 Disciplinary Procedures is amended by deleting the words "a program, or a course" so that as amended paragraph (2) shall read:

- (2) "Tennessee Uniform Administrative Procedures Act." All cases which may result in (1) suspension or expulsion of a student from the institution for disciplinary reasons, (i) assignment of a grade which results in the grade of "F" in a course for academic misconduct, or (iii) revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the "Tennessee Uniform Administrative Procedures Act" and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with College procedures established by these rules.

Authority: T.C.A. §49-8-203.

(01-17)

SOUTHWEST TENNESSEE COMMUNITY COLLEGE

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

AMENDMENTS

Paragraph (3) of rule 0240-3-14-.03 Classroom Misconduct is amended by deleting the words “Assistant Vice President for Student Development” and “Life” and substituting instead the words “Dean of Student Services and Enrollment Management” and “Activities” so that as amended paragraph (3) shall read:

- (3) The instructor shall report the incident to the Director of Student Activities and the Academic Department Chairperson. The Director of Student Activities will meet with the instructor and chairperson to determine the appropriate action before the next class period. If the instructor wishes to exclude the student from the classroom, due process procedures will be followed as outlined in the Student Disciplinary and Due Process Policy. The hearing shall be conducted by the Student Disciplinary Committee. The purpose of the hearing is to determine whether the student will be readmitted to the classroom. Students may appeal decisions of the committee to the Dean of Student Services and Enrollment Management.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-14-.04 Disciplinary Procedures is amended by deleting the words “Director of Student Development” and substituting instead the words “ Director of Student Activities” so that as amended paragraph (2) shall read:

- (2) College Procedures. The administration of discipline is a function of the Director of Student Activities and/or the appropriate adjudicating body.

Subparagraph (a) of paragraph (2) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the word “Development” and substituting instead the word “Activities” so that as amended subparagraph (a) shall read:

- (a) In general, misconduct involving the violation of College rules is reported to the Director of Student Activities. The Director will then investigate the alleged misconduct.

Subparagraph (b) of paragraph (2) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the word “Development” and substituting instead the word “Activities” so that as amended subparagraph (b) shall read:

- (b) After notifying the student as to what College regulation(s) have been allegedly violated, the Director of Student Activities may solicit from the student an admission or denial of violation./

Parts 1. and 2. of subparagraph (b) of paragraph (2) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the word “Development” and substituting instead the word “Activities” so that as amended parts 1. and 2. shall read:

1. When a student admits to a violation, the Director shall discuss those disciplinary sanctions which

might apply (restitution, warning, expulsion, etc.). A student's admission of violation and acceptance of the sanction(s) imposed by the Director of Student Activities will be reduced to writing, signed by the student, and notarized.

2. If a student pleads non-violation to an offense, he or she may choose to have the Director of Student Activities adjudicate the case or request a hearing before the Student Disciplinary Committee.

Parts 5. and 6. of subparagraph (d) of paragraph (2) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the word "Development" and substituting instead the word "Activities" so that as amended parts 5. and 6. shall read:

5. If the Director of Student Activities is to adjudicate the case, the following conditions must be met:

Subparagraph (c) of paragraph (3) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the words "Development" and "Vice President of Student Affairs" and substituting instead the words "Activities" and "Dean of Student Services and Enrollment Management" so that as amended subparagraph (c) shall read:

- (c) An appeal in writing, setting forth the grounds for the appeal, must be submitted via the Director of Student Activities to the Dean of Student Services and Enrollment Management within 48 hours of the original decision.

Paragraph (4) of rule 0240-3-14-.04 Disciplinary Procedures is further amended by deleting the words "a program or a course" so that as amended paragraph (4) shall read:

- (4) Tennessee Uniform Administrative Procedures Act. The College believes that the disciplinary procedures described above serve well the interest of students in obtaining full and fair hearings with a minimum of expense, complexity and inconvenience. An alternative to these procedures, applicable to cases involving student conduct serious enough to warrant (1) suspension or expulsion from the College for disciplinary reason; or (2) revocation of registration of a student organization during the term of the registration is provided by the "Tennessee Uniform Administrative Procedures Act." These cases shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with College procedures.

Authority: T.C.A. §49-8-203.

Subparagraph (h) of paragraph (3) of rule 0240-3-14-.05 Disciplinary Sanctions is amended by deleting the words "Vice President for Student Affairs" and substituting instead the words "Dean of Student Services and Enrollment Management" so that as amended subparagraph (h) shall read:

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

Authority: T.C.A. §49-8-203.

Subparagraph (d) of paragraph (6) of rule 0240-3-14-.06 Traffic and Parking Regulations is amended by deleting the word “Life” and substituting instead the word “Activities” so that as amended subparagraph (d) shall read:

- (d) Student appeals may be made by submitting an appeal form to the Office of Student Activities. The form can be obtained from the Campus Police Office and must be submitted within seventy-two (72) hours after the issuance of the citation.

Subparagraph (b) of paragraph (11) of rule 0240-3-14-.06 Traffic and Parking Regulations is further amended by deleting the word “Life” and substituting instead the word “Activities” so that as amended subparagraph (b) shall read:

- (b) Policy

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

Part 1. of subparagraph (c) of paragraph (11) of rule 0240-3-14-.06 Traffic and Parking Regulations is further amended by deleting the word “Life” and substituting instead the word “Activities” so that as amended part 1. shall read:

- 1. The appeal process begins with the student completing the “Request to Void Ticket” form. These forms may be obtained, completed and left in the Office of Student Activities. The traffic citation issued by the Campus Police must be attached to the appeal form at the time of its submission to the Committee.

Parts 4. and 5. of subparagraph (c) of paragraph (11) of rule 0240-3-14-.06 Traffic and Parking Regulations is further amended by deleting the text of the parts and substituting instead the following language so that as amended parts 4. and 5. shall read:

- 4. A copy of the action of the Committee on an appeal will be made known to the Dean of Student Services and Enrollment Management and the Campus Police. The Campus Police will notify the student of the results via returned student copy of the request form on which the action will be noted. If the student wishes to learn the committee decision prior to the receipt of their copy, the student may call the Office of Student Activities after the committee hearing is held.
- 5. If the student feels that the Committee’s decision must be appealed, the student may submit a written request to the Dean of Student Services and Enrollment Management within 72 hours after the decision of the Committee has been released. The Dean of Student Services and Enrollment Management will review the respective decisions and decide whether to uphold or override committee action.

Authority: T.C.A. §49-8-203.

(01-18)

VOLUNTEER STATE COMMUNITY COLLEGE**CHAPTER 0240-3-15
STUDENT DISCIPLINARY RULES****AMENDMENTS**

Subparagraph (d) of paragraph (2) of rule 0240-3-15-.02 Disciplinary Offenses is amended by deleting the word “facilities” and adding the word “facility” so that as amended subparagraph (d) shall read:

- (d) Obstruction of or interference with institutional activities or facilities. Any intentional interference with or obstruction of any institutional activity, program, event or facility, including the following:

Authority: T.C.A. §49-8-203.

Subparagraph (h) of paragraph (2) of rule 0240-3-15-.04 Disciplinary Sanctions is amended by deleting the comma (,) at the end of the second sentence and adding a period (.) so that as amended subparagraph (h) shall read:

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

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-15-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” and “exclusion” and substituting instead the word “expulsion” so that as amended paragraph (2) shall read:

- (2) “Tennessee Uniform Administrative Procedures Act.” All cases which may result in (i) suspension or expulsion of a student from the institution for disciplinary reasons, or (ii) revocation of recognition of a student organization for disciplinary reasons are subject to the contested case provision of the “Tennessee Uniform Administrative Procedures Act” (TUAPA) and shall be processed in accordance with the uniform contested case procedures adopted by the Board of Regents unless the student waives those procedures in writing and elects to have his or her case disposed of in accordance with College hearing procedures established by these rules.

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (1) of rule 0240-3-15-.06 Traffic and Parking Regulations is amended by deleting the word “Security” and adding the word “Police” so that as amended subparagraph (b) shall read:

- (b) The Chief of Campus Police is responsible for the enforcement of these regulations.

Part 1. of subparagraph (a) of paragraph (4) of rule 0240-3-15-.06 Traffic and Parking Regulations is further amended by deleting the words “two” and “citations” and adding the words “one” and “citation” so that as amended part 1. shall read:

1. Each citation for violation of Traffic and Parking Regulations carries a fine of \$10.00 after the violator has received one warning citation for each violation(s).

Authority: T.C.A. §49-8-203.

(01-19)

WALTERS STATE COMMUNITY COLLEGE

CHAPTER 0240-3-16 STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (2) of rule 0240-3-16-.01 Institution Policy Statement is amended by adding the following language to the end of the paragraph so that as amended paragraph (2) shall read:

- (2) Pursuant to this authorization, the College has developed the following regulations which are intended to govern student conduct on the campus. In addition, students are subject to all federal, state and local laws and ordinances. If a student’s violation of such laws or ordinances also adversely affects the institution’s pursuit of its educational objectives, the institution may enforce its own regulations regardless of any proceedings instituted by other authorities. Conversely, violation of any section of these Regulations may subject a student to disciplinary measures by the institution whether or not such conduct is simultaneously violative of state, local, or federal laws. In addition, all allied health and nursing students are subject to alcohol and drug testing as requested by clinical agencies or under “reasonable suspicion testing” as stated in each allied health and nursing program handbook.

Authority: T.C.A. §49-8-203.

Subparagraph (j) of paragraph (2) of rule 0240-3-16-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages: The use, possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Walters State Community College Drug-Free Campus/Workplace Policy Statement.

Subparagraph (k) of paragraph (2) of rule 0240-3-16-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Drugs: the unlawful use, possession, distribution, sale or manufacture, of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic, drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Walters State Community College Drug-Free Campus/Workplace Policy Statement.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-16-.04 Disciplinary Sanctions is amended by adding new subparagraph (i). New subparagraph (i) shall read:

- (i) Mandatory participation in, and satisfactory completion of, a drug or alcohol abuse program, or rehabilitation program.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (2) of rule 0240-3-16-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended subparagraph (a) shall read:

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

Authority: T.C.A. §49-8-203.

(01-20)

NASHVILLE STATE TECHNICAL INSTITUTE

CHAPTER 0240-3-17 STUDENT DISCIPLINARY RULES

AMENDMENTS

Subparagraph (j) of paragraph (2) of rule 0240-3-17-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages. The use, possession, distribution, sale or manufacture of alcoholic beverages, or public intoxication on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Nashville State Technical Institute Drug-Free Schools and Communities Policy Statement.

Subparagraph (k) of paragraph (2) of rule 0240-3-17-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Drugs. The unlawful use, possession, distribution, sale or manufacture, of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance or marijuana) or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the institution; at an institution-sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any term of the Nashville State Technical Institute Drug-Free Schools and Communities Policy Statement.

Paragraph (2) of rule 0240-3-17-.02 Disciplinary Offenses is amended by adding a new subparagraph (u). New subparagraph (u) shall read:

- (u) Littering. Littering campus grounds and illegal dumping or disposal of waste on campus property is prohibited.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-17-.04 Disciplinary Sanctions is amended by adding a new subparagraph (i). New subparagraph (i) shall read:

- (i) Therapeutic intervention. Mandatory participation in, and satisfactory completion of, a drug or alcohol abuse program, or rehabilitation program.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-17-0.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (2) shall read:

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

Paragraph (2) of rule 0240-3-17-.05 Disciplinary Procedures is further amended by adding a new subparagraph (vi). New subparagraph (vi) shall read:

(vi) Disclosures

- (I) The institution may disclose the final results of disciplinary proceedings to a victim of an alleged perpetrator of a crime of violence or non-forcible sex offense regardless of the outcome of the disciplinary proceeding.
- (II) The institution may disclose the final results of disciplinary proceedings to the public, but only if the student is determined to be an alleged perpetrator of a crime of violence or non-forcible sex offense, and has committed a violation of the institution’s rules or policies.

- (III) The institution may disclose to parents of students under 21 years of age (at the time of disclosure) disciplinary violations concerning drug or alcohol use or possession.

Authority: T.C.A. §49-8-203.

(01-21)

PELLISSIPPI STATE TECHNICAL COMMUNITY COLLEGE

CHAPTER 0240-3-18 STUDENT DISCIPLINARY RULES

AMENDMENTS

Paragraph (1) of rule 0240-3-18-.05 Disciplinary Procedures is amended by deleting the word “that” and adding the word “which” so that as amended paragraph (1) shall read:

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

Paragraph (2) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the words “a program, or a course” and “Administration” and substituting instead the word “Administrative” so that as amended paragraph (2) shall read:

- (2) All cases which may result in suspension or expulsion of a student from Pellissippi State for disciplinary reasons, or revocation of registration of a student organization during the term of the registration are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures (TUAPA) and shall be processed in accordance with the uniform contested case procedures adopted by TBR unless the student waives those procedures in writing and elects to have his/her case disposed of in accordance with Pellissippi State procedures established by the rules.

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

- (g) The right to appeal the decision of the Pellissippi State official or the Student Disciplinary Hearing Body to the Pellissippi State President through the chair of the Student Disciplinary Hearing Body.

Subparagraph (f) of paragraph (4) of rule 0240-3-18-.05 Disciplinary Procedures is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (f) shall read:

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

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

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

Authority: T.C.A. §49-8-203.

Subparagraph (b) of paragraph (9) of rule 0240-3-18-.06 Traffic and Parking Regulations is amended by adding an additional sentence to the subparagraph so that as amended subparagraph (b) shall read:

- (b) The person receiving a citation may obtain an appeals form from the Safety and Security Office. The student will present the completed appeal form to the Safety and Security Office. Forms can be obtained and submitted in the main office at the branch campuses. An appeal form can also be completed and submitted electronically at the PSTCC web page: <http://www.pstcc.cc.tn.us/security/appeal.html>

Authority: T.C.A. §49-8-203.

(01-22)

**NORTHEAST STATE TECHNICAL COMMUNITY COLLEGE
CHAPTER 0240-3-20
STUDENT DISCIPLINARY RULES**

AMENDMENTS

Subparagraph (j) of paragraph (2) of rule 0240-3-20-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverages. The use, possession, distribution, sale, or manufacture of alcoholic beverages or public intoxication on property owned or controlled by the college, at college sponsored events, on property owned or controlled by an affiliated clinical site, or violation of any terms of the Northeast State Technical Community College Drug Free Schools and Community Policy Statement.

Subparagraph (k) of paragraph (2) of rule 0240-3-20-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Drugs. The unlawful use, possession, distribution, sale, or manufacture of any drug or controlled substance (including any stimulant, depressant, narcotic, hallucinogenic drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the college; at a college sponsored event; on property owned or controlled by an affiliated clinical site; or in violation of any terms of the Northeast State Technical Community College Drug-Free School and Community Policy Statement.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-20-.04 Disciplinary Sanctions is amended by adding a new subparagraph (i) so that as amended new subparagraph (i) shall read:

- (i) Mandatory participation in and satisfactory completion of a drug or alcohol abuse program, or rehabilitation program.

Authority: T.C.A. §49-8-203.

Subparagraph (a) of paragraph (2) of rule 0240-3-20-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (2) shall read:

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

Authority: T.C.A. §49-8-203.

(01-23)

TENNESSEE TECHNOLOGY CENTERS

CHAPTER 0240-3-21 STUDENT DISCIPLINARY RULES

AMENDMENTS

Subparagraph (a) of paragraph (3) of rule 0240-3-21-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” and adding the word “case” so that as amended subparagraph (a) shall read:

- (a) TUAPA

The only cases which are subject to a TUAPA hearing are suspensions or expulsions of a student from the school for (1) disciplinary offenses or (2) academic misconduct. Those cases are subject to the contested case provisions of the Tennessee Uniform Administrative Procedures Act (TUAPA) and shall be processed in accordance with the uniform contested case procedures unless the student waives these procedures in writing and elects to have his/her case disposed of in accordance with the school procedures.

Authority: T.C.A. §49-8-203.

(01-24)

MOTLOW STATE COMMUNITY COLLEGE**CHAPTER 0240-3-12
STUDENT DISCIPLINARY RULES**

Presented herein are proposed amendments of the Tennessee Board of Regents submitted pursuant to Tennessee Code Annotated, § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee Board of Regents to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed in Suite 350 of the Genesco Park Building located at 1415 Murfreesboro Road, Nashville, TN 37217 and in the Department of State, Fifth Floor, James K. Polk State Office Building, Sixth and Dead-erick, Nashville, TN 37219, and must be signed by twenty-five (25) persons who will be affected by the rules, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Mary M. Slater, 1415 Murfreesboro Road, Suite 350, Nashville, Tennessee 37217, Tennessee Board of Regents, 615-366-4438.

The text of the proposed amendments is as follows:

AMENDMENTS

Subparagraph (j) of paragraph (2) of rule 0240-3-12-.02 Disciplinary Offenses is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (j) shall read:

- (j) Alcoholic beverage. The use and/or possession, distribution, sale or manufacture of alcoholic beverages or public intoxication on property owned or controlled by the institution, at an institution-sponsored event, on property owned or controlled by an affiliated clinical site, or in violation of any term of the Motlow Drug-Free Schools and Communities Policy Statement;

Subparagraph (k) of paragraph (2) of rule 0240-3-12-.02 Disciplinary Offenses is further amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (k) shall read:

- (k) Drugs. The unlawful use, possession, distribution, sale or manufacture of any drug or controlled substance (including any stimulant, depressant, narcotic, or hallucinogenic drug or substance, or marijuana), being under the influence of any drug or controlled substance, or the misuse of legally prescribed or “over the counter” drugs on property owned or controlled by the institution, at an institution-sponsored event, on property owned or controlled by an affiliated clinical site, or in violation of any term of the Motlow Drug-Free Schools and Communities Policy Statement;

Authority: T.C.A. §49-8-203.

Subparagraph (i) of paragraph (2) of rule 0240-3-12-.04 Disciplinary Sanctions is amended by deleting the text of the subparagraph and substituting instead the following language so that as amended subparagraph (i) shall read:

- (i) Counseling/Rehabilitative Treatment. Counseling sessions with Motlow State counseling personnel or outside sources may be recommended. Mandatory participation in, and satisfactory completion of a drug or alcohol abuse program or rehabilitation program.

Authority: T.C.A. §49-8-203.

Paragraph (2) of rule 0240-3-12-.05 Disciplinary Procedures is amended by deleting the words “a program, or a course” so that as amended paragraph (2) shall read:

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

Part 1. of subparagraph (a) of paragraph (3) of rule 0240-3-12-.05 Disciplinary Procedures is further amended by adding the words “in writing” so that as amended part 1. shall read:

1. The Vice President for Student Affairs and Institutional Advancement shall advise the student in writing of the alleged charges against him/her and proceed to gather information concerning the case.

Authority: T.C.A. §49-8-203.

(01-35)

The proposed rules set out herein were properly filed in the Department of State on the 11th day of January, 2002 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 31st day of May, 2002. (01-06 through 01-24 and 01-35)

**DEPARTMENT OF TRANSPORTATION - 1680
CENTRAL SERVICES DIVISION**

**CHAPTER 1680-2-2
OVERWEIGHT AND OVERDIMENSIONAL
MOVEMENTS ON TENNESSEE HIGHWAYS**

Presented herein are proposed amendments of the Tennessee Department of Transportation, Central Services Division, submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate this rule without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the Tennessee Department of Transportation, Central Services Division, Suite 800, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0349, and in the Department of State, Division of Publications, 312 Eight Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, TN 37243-0307, and must be signed by twenty-five (25) persons who 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 copies of the entire text of this rule contact Bob Byrd, Tennessee Department of Transportation, Central Services Division, Suite 800, James K. Polk Building., 505 Deaderick Street, Nashville, TN 37243-0349, Telephone: (615) 741-1751.

The texts of the proposed amendments are as follows:

AMENDMENTS

Subparagraphs (10)(a) and (10)(d) of Rule 1680-2-2-.14, Conditions for Permitting Movement of Site-Built Houses, are amended by changing the area codes of the telephone numbers to “865” and “731”, respectively, so that as amended these subparagraphs shall read:

- | | |
|---|--|
| <p>(a) Region 1, Maintenance Office
 TN Dept. of Transportation
 7345 Region Lane
 Knoxville, TN 37914
 Telephone No. (865) 594-9165</p> | <p>(d) Region 4, Maintenance Office
 TN Dept. of Transportation
 300 Benchmark Place
 Jackson, TN 38301
 Telephone No. (731) 935-0174</p> |
|---|--|

Authority: T.C.A. §55-7-205.

Rule 1680-2-2-.23, Bond or Proof of Solvency Requirements, is amended by deleting the rule in its entirety and substituting the following language so that as amended the rule shall read:

1680-2-2-.23 BOND OR PROOF OF SOLVENCY REQUIREMENTS.

- (1) The Commissioner may require, as a condition of the issuance of a permit under these rules, that an applicant shall agree to and give bond with surety (unless an applicant shall by sworn statement furnish satisfactory proof of the applicant’s own solvency to the authority issuing the permit) to indemnify the state and/or counties thereof, against damages to roads, or bridges, resulting from the use thereof by the applicant. Each such permit and bond, if the Commissioner so authorizes, may cover more than one vehicle operated by the same applicant.
- (2) The bond required shall be in a form acceptable to the Department and in an amount, as determined by the Department, sufficient to indemnify the state and/or counties for the potential damages to roads and bridges resulting from the applicant’s use.
- (3) A sworn statement furnishing satisfactory proof of the applicant’s solvency shall mean an audited financial statement, certified by a certified public accountant, showing net assets of the applicant in an amount, as determined by the Department, sufficient to indemnify the state and/or counties for the potential damages to roads and bridges resulting from the applicant’s use.

Authority: T.C.A. §55-7-205.

Subparagraph 7 (a) of Rule 1680-2-2-.24, Fees, is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (7) Authorized Vendor Stations
 - (a) Permits (except annual permits) may be received and paid for through the various authorized vendor stations. At the present time these vendors are:

1. Best Permit Agency
2. Comdata Network, Inc.
3. Interstate Permit Service, Inc.
4. Jet Permit
5. Maryland Permit Service
6. Nova Permits & Pilot Cars
7. Permits, Inc.
8. State Permits
9. The Permit Company
10. Trans Mid-America, Inc.
11. Transport Permits
12. Xero-Fax, Inc.

Authority: T.C.A. §55-7-205.

The proposed rules set out herein were properly filed in the Department of State on the 11th day of January, 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 31st day of May, 2002. (01-26)

**DEPARTMENT OF TRANSPORTATION - 1680
MAINTENANCE DIVISION**

CHAPTER 1680-3-1

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS

Presented herein are proposed rules of the Tennessee Department of Transportation, Maintenance Division, submitted pursuant T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Tennessee of Transportation 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 Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed with the Tennessee Department of Transportation, Legal Office, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, and in the Department of State, Division of Publications, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the text of these proposed rules, contact the Tennessee Department of Transportation, Legal Office, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, telephone number (615) 741-2941.

The text of the proposed rules is as follows:

REPEALS

All rules within Chapter 1680-3-1, Adoption of the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways, are repealed in their entirety and replaced with the following new rules:

NEW RULES

TABLE OF CONTENTS

1680-3-1-.01	Applicability	1680-3-1-.04	Standard Highway Signs
1680-3-1-.02	Adoption of Manual on Uniform Traffic Control Devices, Millennium Edition		
1680-3-1-.03	Adoption of Future Revisions to Manual on Uniform Traffic Control Devices, Millennium Edition		

1680-3-1-.01 APPLICABILITY.

These rules shall govern the design and location of all signs, signals, markings and postings of traffic regulations on or along all streets and highways in the State of Tennessee, and no signs, signals, markings or postings of traffic regulations shall be located on any street or highway in the State of Tennessee regardless of type or class of the governmental agency having jurisdiction thereof except in conformity with the *Manual on Uniform Traffic Control Devices, Millennium Edition* (MUTCD), as adopted in these rules.

Authority: T.C.A. § 54-5-108(b).

1680-3-1-.02 ADOPTION OF MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, MILLENNIUM EDITION.

The United States Department of Transportation, Federal Highway Administration, *Manual on Uniform Traffic Control Devices, Millennium Edition* (2001), is hereby adopted in its entirety and incorporated herein by reference.

Authority: T.C.A. § 54-5-108(b).

1680-3-1-.03 ADOPTION OF FUTURE REVISIONS TO MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES, MILLENNIUM EDITION.

All future revisions to the MUTCD, as may hereafter be approved by the United States Department of Transporta-

tion, Federal Highway Administration, are hereby adopted prospectively and incorporated herein by reference as of the effective date announced by the Federal Highway Administration.

Authority: T.C.A. § 54-5-108(b).

1680-3-1-.04 STANDARD HIGHWAY SIGNS.

- (1) The provisions of the MUTCD set forth the basic principles that govern the design and usage of the most commonly used highway signs. Detailed specifications for the layout of these signs are provided in the *Standard Highway Signs*, 1979 Edition, published by the Federal Highway Administration, which is incorporated by reference into the MUTCD.
- (2) Detailed specifications for other signs frequently used in Tennessee, as required by statute or otherwise authorized by the MUTCD, are detailed in the *Tennessee Supplement to 1979 Standard Highway Signs*, which is published by the Department.
- (3) The Department authorizes the design and usage of the signs in the *Tennessee Supplement to 1979 Standard Highway Signs* and any additions or revisions thereto which the Department may adopt hereafter.
- (4) Signs on any street or highway open to public travel in the State of Tennessee shall be fabricated, installed and used in accordance with the specifications set forth in the *Standard Highway Signs*, 1979 Edition, and the *Tennessee Supplement to 1979 Standard Highway Signs*, and as each may hereafter be revised.

Authority: T.C.A. § 54-5-108(b).

The proposed rules set out herein were properly filed in the Department of State on the 23rd day of January, 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 31st day of May, 2001. (01-38)

DEPARTMENT OF TRANSPORTATION - 1680 MAINTENANCE DIVISION

CHAPTER 1680-9-1 SPECIFIC SERVICE SIGNS (LOGO SIGN PROGRAM)

Presented herein are proposed amendments to the rules for Specific Service Signs (Logo Sign Program) of the Tennessee Department of Transportation, Maintenance Division, submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Transportation to promulgate these rules without a rulemaking hearing unless a petition requesting such a hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. To be effective, such petition must be filed with the Tennessee Department of Transportation, Legal Office, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, and in the Department of State, Division of Publications, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the text of these proposed amendments, contact the Tennessee Department of Transportation, Legal Office, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, telephone number (615) 741-2941.

The text of the proposed amendments is as follows:

AMENDMENTS

Paragraph (1) of Rule 1680-9-1-.01, Preface, is amended by deleting the word “1990” between the words “the” and “federal” in the third sentence of the paragraph and substituting the words “most recent decennial” so that as amended the third sentence of the paragraph shall read:

Logo signs will be permitted at interchanges on the Interstate Highway System that are located outside of the Census Boundary of cities of 100,000 or greater population as designated by the United States Bureau of Census in the most recent decennial federal census.

Authority: *T.C.A. § 54-5-1108.*

Paragraph (2) of Rule 1680-9-1-.01, Preface, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (2) The following rules set forth the criteria to be followed in the administration of the Logo Sign Program. If questions arise in the interpretation of these rules, the Commissioner of the Tennessee Department of Transportation, or the Commissioner’s designee, will make the final administrative determination. These rules supersede all prior rules related to gas, food, lodging and camping or attraction service signs.

Authority: *T.C.A. § 54-5-1108.*

Paragraph (1) of Rule 1680-9-1-.02, Definitions, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (1) “Background Sign Panel” means an official sign panel placed within the Interstate right-of-way along the mainline of travel with the words Gas, Food, Lodging, Camping or Attraction, or a combination thereof, and with space where one to six individual business logo signs may be attached.

Authority: *T.C.A. § 54-5-1108.*

Paragraph (2) of Rule 1680-9-1-.02, Definitions, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (2) “Business” means any approved public commercial facility that provides one of the five qualifying motorist services eligible to participate in the Logo Sign Program.

Authority: *T.C.A. § 54-5-1108.*

Paragraph (12) of Rule 1680-9-1-.02, Definitions, is amended by deleting the paragraph in its entirety and substituting the following language so that as amended the paragraph shall read:

- (12) “Motorist Service” means a place of business providing either Gas, Food, Lodging, Camping or Attraction facilities.

Authority: T.C.A. § 54-5-1108.

Subparagraph (1)(c) of Rule 1680-9-1-.04, Criteria for the Erection of Signs for the Logo Sign Program, is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (c) There shall be no more than a total of four background sign panels along the approach to any interchange, in each direction of travel, and no more than one background sign panel shall be erected for each eligible motorist service. The background sign panels shall be erected in the following order in relation to the direction of travel: first, Attraction and/or Camping; second, Lodging; third, Food; and fourth, Gas.

Authority: T.C.A. § 54-5-1108.

Subparagraph (1)(c), Part 6, of Rule 1680-9-1-.04, Criteria for the Erection of Sign for the Logo Sign Program, is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

- 6. A business is eligible to participate in the Logo Sign Program provided that it offers at least one of the specific motorist services (Gas, Food, Lodging, Camping or Attraction) and it meets the applicable minimum criteria set forth in Rule 1680-9-1-.05.

Authority: T.C.A. § 54-5-1108.

Subparagraph (1)(g) of Rule 1680-9-1-.04, Criteria for the Erection of Signs for the Logo Sign Program, is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the subparagraph shall read:

- (g) No descriptive advertising words, phrases or slogans shall be allowed on any logo sign, except to indicate dates of operation of eligible campgrounds that open on a seasonal basis or to indicate that a business is “open 24 hours” or that a business offers “diesel” or “auto diesel” fuel.

Authority: T.C.A. § 54-5-1108.

Subparagraph (1)(h) of Rule 1680-9-1-.04, Criteria for the Erection of Signs for the Logo Sign Program, is amended by adding the words “or Attraction” between the words “Camping” and “motorist service” in the second sentence of the paragraph so that as amended the second sentence of the paragraph shall read:

- (h) The distance that a Camping or Attraction motorist service business can be located from the Primary Point of Intersection (PPOI) to qualify for a logo sign shall not exceed fifteen (15) miles in either direction.

Authority: T.C.A. § 54-5-1108.

Paragraph (2) of Rule 1680-9-1-.05, Services Permitted, is amended by deleting the first two introductory sentences in their entirety and substituting the following language so as amended these sentences shall read:

- (2) The types of motorist service facilities shall be limited to Gas, Food, Lodging, Camping or Attraction. To qualify for the Logo Sign Program and to display a logo sign on a background sign panel, the following minimum criteria must be met:

Authority: T.C.A. § 54-5-1108.

Subparagraph (2)(a), Part 2, of Rule 1680-9-1-.05, Services Permitted, is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

2. Drinking water suitable for public use and two or more clean public rest rooms, with at least one for men and one for women, must be available during all hours the facility is open to the public;

Authority: T.C.A. § 54-5-1108.

Subparagraph (2)(b), Part 5, of Rule 1680-9-1-.05, Services Permitted, is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

5. Two or more clean public rest rooms, with at least one for men and one for women, must be available during all hours the facility is open to the public; and

Authority: T.C.A. § 54-5-1108.

Paragraph (2) of Rule 1680-9-1- .05, Services Permitted, is further amended by adding a new subparagraph (e) as follows:

(e) ATTRACTION

1. Adequate parking for the facility with a minimum of twenty (20) spaces;
2. Year-round operation and open to the public at least five (5) days a week, including at least one day on the weekend;
3. Located not more than fifteen (15) miles from the primary point of intersection (PPOI), and meet the requirements as set forth in Rule 1680-9-1-.06;
4. Drinking water suitable for public use and two or more clean public rest rooms, with at least one for men and one for women, must be available during all hours the facility is open to the public;
5. Telephone; and
6. Open to members of the public of all age groups, and excluding businesses open only to adults.
7. Categories of businesses eligible for an Attraction sign may include:
 - (i) Arenas or stadiums,
 - (ii) Cultural centers,
 - (iii) Amusement parks,
 - (iv) Zoos or aquariums,
 - (v) Race tracks,

- (vi) Historical sites,
 - (vii) Museums,
 - (viii) Arts or crafts,
 - (ix) Wineries or breweries,
 - (x) Golf courses,
 - (xi) Recreational areas, and
 - (xii) Shopping, Outlet or Antique Malls.
8. An Attraction shall not be eligible to participate in the Logo Sign Program if a Guide Sign has been erected for the Attraction in accordance with Chapter 1680-3-2, Manual on Uniform Traffic Control Devices - Supplemental Rules for Guide Signs on Freeways, Expressways and Conventional Highways.

Authority: T.C.A. § 54-5-1108.

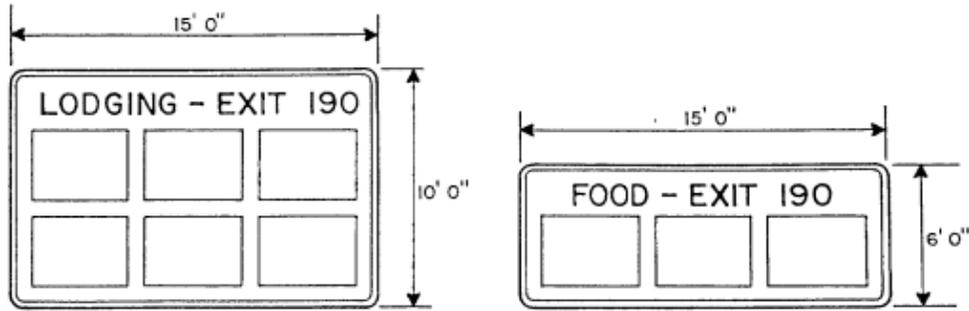
Subparagraph (1)(b), Part 2, of Rule 1680-9-1-.06, Measurements, is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

2. CAMPGROUNDS and ATTRACTIONS:
- (i) A Campground or Attraction shall be located within fifteen (15) miles of the Primary Point of Intersection (PPOI).

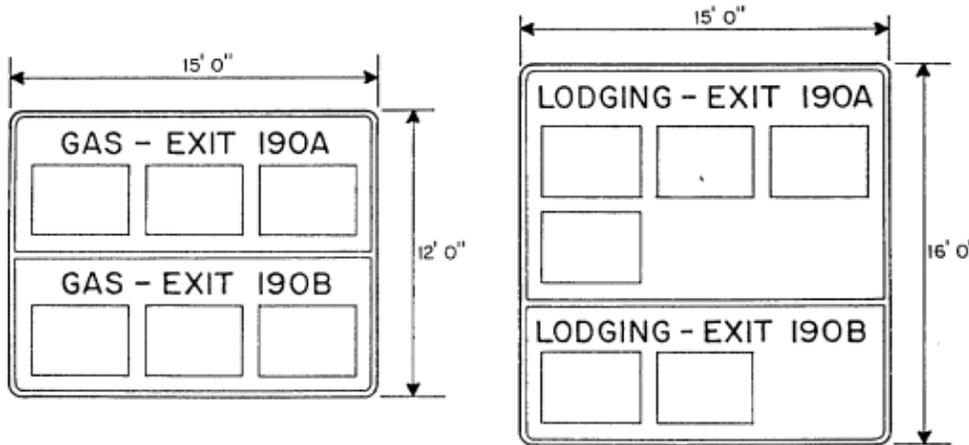
Authority: T.C.A. §54-5-1108.

Rule 1680-9-1-.13, Appendix, is amended by deleting the rule in its entirety and substituting the following language and figures so that as amended the rule shall read:

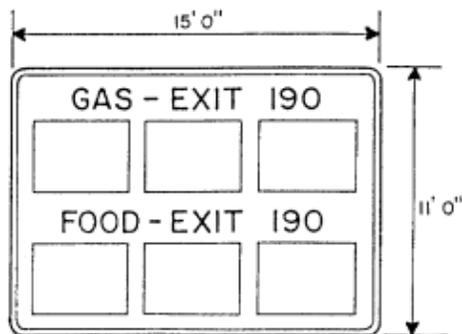
1680-9-1-.13 APPENDIX.



TYPICAL MAINLINE BACKGROUND SIGN PANEL DETAIL (SINGLE EXIT RAMP INTERCHANGE)



TYPICAL MAINLINE BACKGROUND SIGN PANEL DETAIL (DOUBLE EXIT RAMP INTERCHANGE)



TYPICAL COMBINATION MAINLINE BACKGROUND SIGN PANEL

FIGURE 1

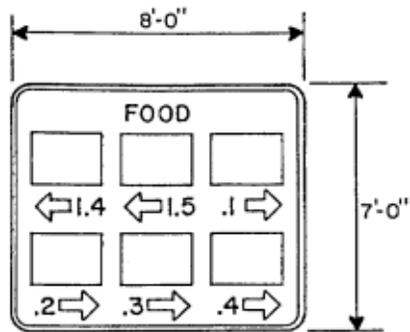


FIGURE 2: TYPICAL EXIT RAMP BACKGROUND SIGN PANEL DETAIL

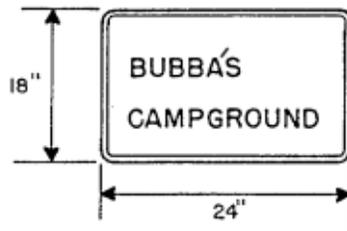


FIGURE 3: TYPICAL TRAILBLAZER SIGN DETAIL



FIGURE 4: TYPICAL DIRECTION ARROW & MILEAGE DETAIL

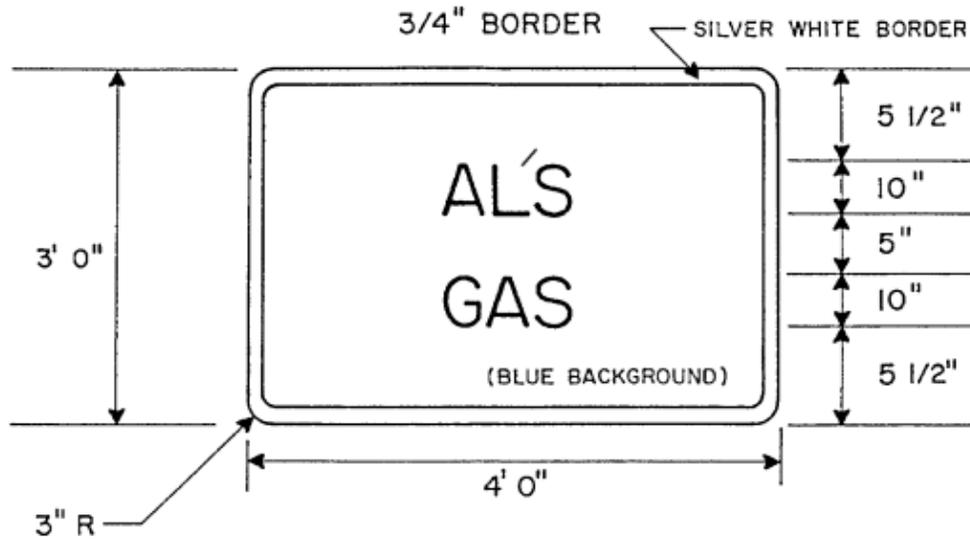


FIGURE 5: TYPICAL MAINLINE LOGO SIGN DETAIL
(FOR ALL MOTORIST SERVICES)

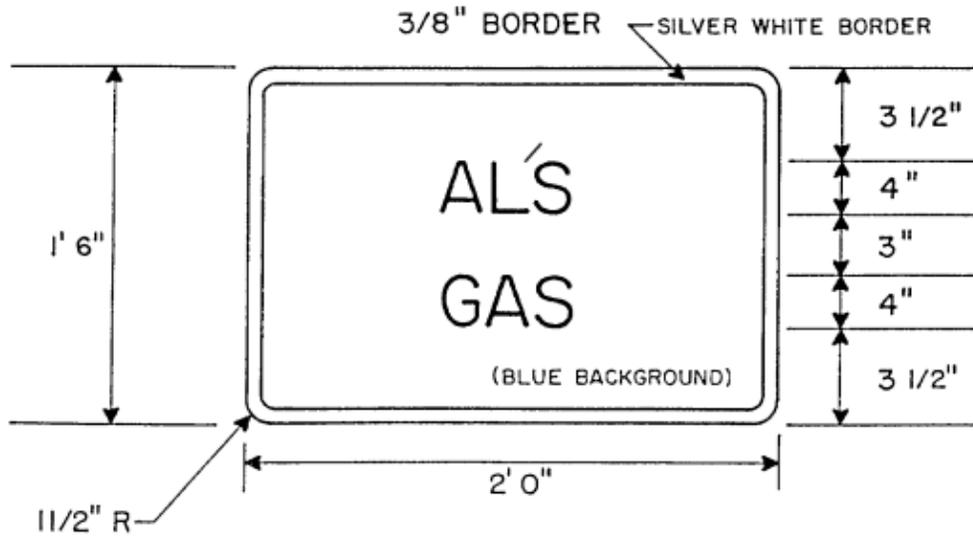
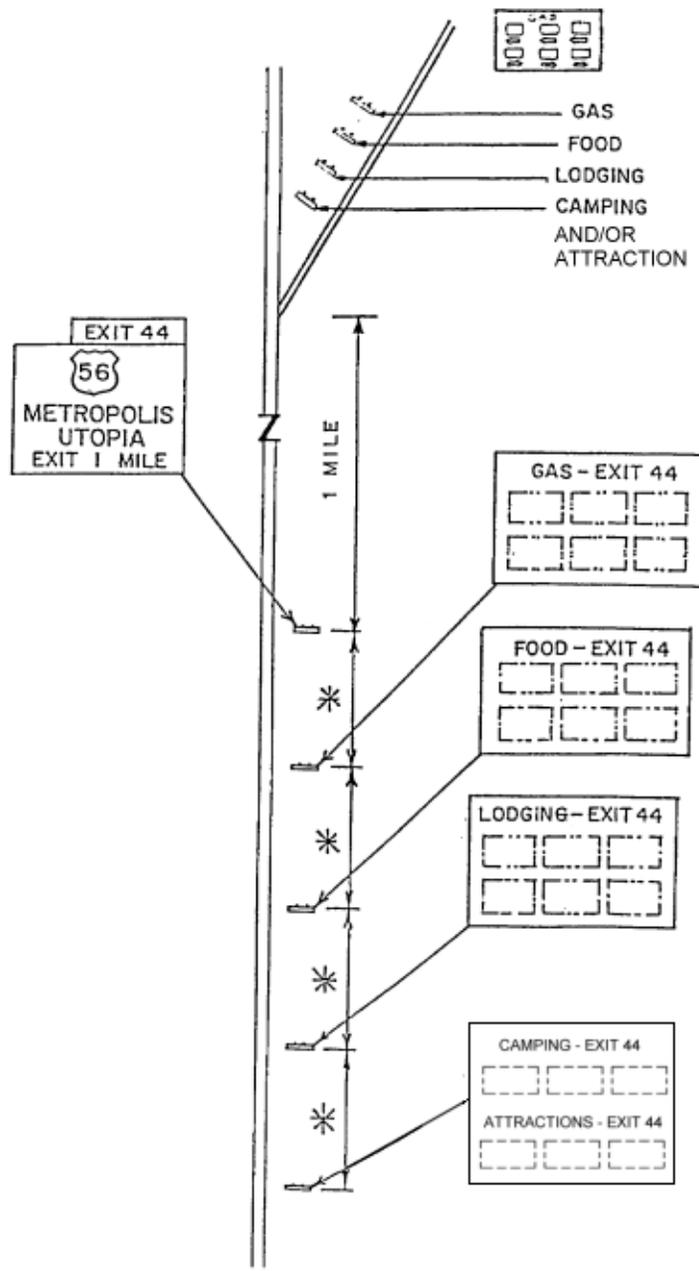


FIGURE 6: TYPICAL EXIT RAMP LOGO SIGN DETAIL
(FOR ALL MOTORIST SERVICES)



*DESIRABLE SPACING - 800'

TYPICAL SIGN LOCATION DETAIL

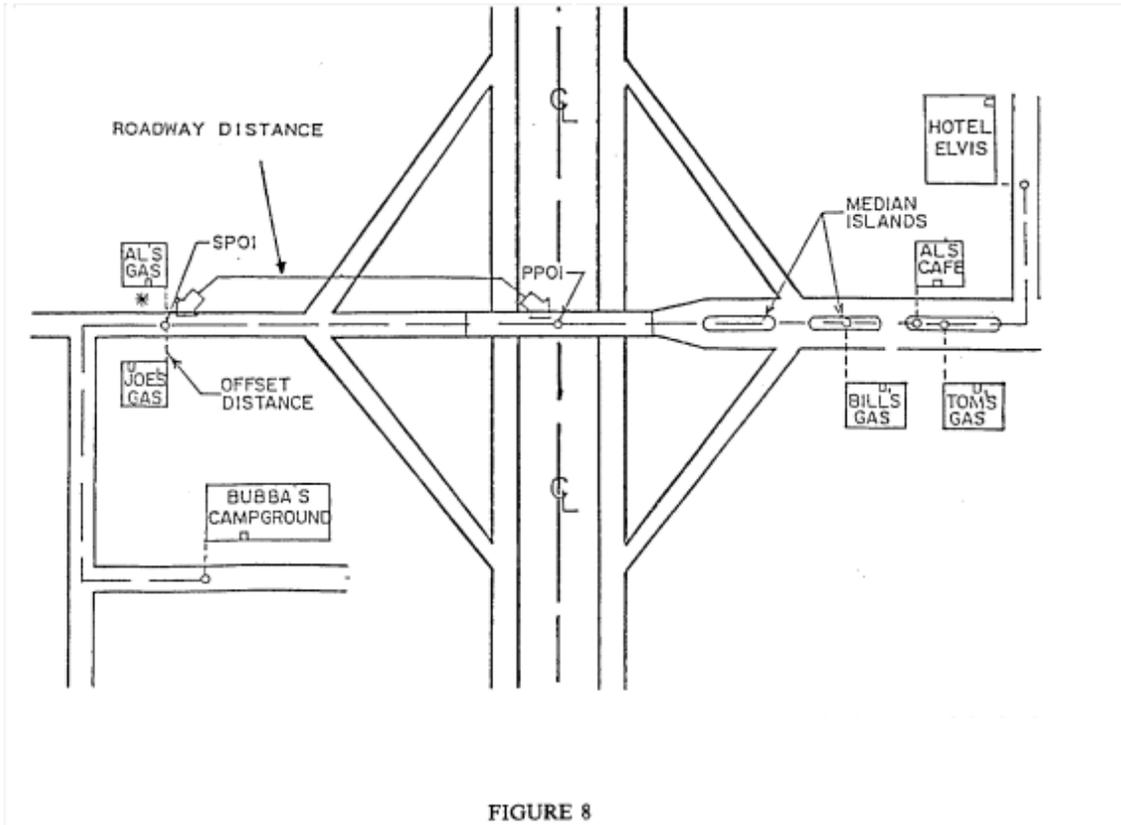


FIGURE 8

The proposed rules set out herein were properly filed in the Department of State on the 11th day of January, 2002 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 31st day of May, 2002. (01-27)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

- 0620 - Department of Finance and Administration - Public necessity rules complying with or to implement the provisions of any federal waiver” permitted under the TennCare Medical Assistance Program, chapter 1200-13-12 Bureau of TennCare, 10 T.A.R. (October 2001) - Filed September 28, 2001; effective through March 12, 2002. (09-31)
- 0780 - Department of Commerce and Insurance, Division of TennCare and Division of Insurance, public necessity rules dealing with uniform TennCare claims process, standardized instructions for completing the form and standardized responses to questions and other information required on the form, for providers and managed care organizations participating in the TennCare program to use in the submission of claims by providers seeking payment, Chapter 0780-1-73 Uniform Claims Process for TennCare Participating Managed Care Organizations, 1 T.A.R. (January 2002) - Filed January 31, 2002; effective thorough June 14, 2002. (12-27)
- 1200 - Department of Health, Bureau of Health Services Administration, Division of General Environmental Health - Public necessity rules dealing with licensure of body piercing technicians, permitting and inspection of body piercing establishments, and regulating body piercing procedures, Chapter 1200-23-6 Body Piercing, 10 T.A.R. (October 2001) - Filed September 6, 2001; effective through February 18, 2002. (09-01)
- 1240 - Department of Human Services - Child Support Division - Public Necessity Rules relating to child support payments, chapter 1240-2-3 Miscellaneous IV-D, 12 T.A.R. (December 2002) - Filed November 1, 2001 through April 15, 2002. (12-22)

**DEPARTMENT OF TRANSPORTATION - 1680
PUBLIC TRANSPORTATION, WATERWAYS AND RAIL DIVISION**

The Tennessee Department of Transportation will hold a public hearing to receive comments concerning the promulgation of rules for Railroad Grade Crossing Standards under Chapter 315 of the Public Acts of 2001, Tenn. Code Ann. § 65-11-101(c). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-201, et seq., and will take place in Main Conference Room on the 7th Floor of the James K. Polk Building located at 505 Deaderick Street, Nashville, Tennessee 37243 at 1:00 p.m. CST on Thursday, March 21, 2002.

Written comments will be considered if received by the close of business (4:30 p.m.) on March 21, 2002, in the Office of General Counsel, Tennessee Department of Transportation, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Department of Transportation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone or other appropriate means, and should be made no less than ten (10) days prior to the public hearing (March 21, 2002) or the date the party intends to review such filings to allow time to provide such aid or service. Such contact may be made with the Department of Transportation’s ADA Coordinator at Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, or by telephone at (615) 741-4984.

For a copy of this notice of rulemaking hearing, contact: John H. Reinbold, Tennessee Department of Transportation, Office of General Counsel, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, telephone number (615) 741-2941.

SUBSTANCE OF PROPOSED RULES

**DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION, WATERWAYS AND RAIL DIVISION**

**CHAPTER 1680-12-1
RAILROAD GRADE CROSSING STANDARDS**

NEW RULE

TABLE OF CONTENTS

1680-12-1-01	Purpose	1680-12-1-05	Procedures for Approvals and Inspections
1680-12-1-02	Applicability	1680-12-1-06	Costs of Construction or Conversion
1680-12-1-03	Definitions	1680-12-1-07	Fees
1680-12-1-04	Standards		

1680-12-1-.01 PURPOSE.

The purpose of these Rules is to implement Chapter 315 of the Tennessee Public Acts of 2001, Tenn. Code Ann. § 65-11-101(c), by establishing standards for the construction of railroad grade crossings on public roads, and for the conversion of private crossings to public crossings, within the State of Tennessee. These Rules also establish procedures for the approval of plans for the construction or conversion of grade crossings and for the inspection of these crossings by the Department before they are opened to vehicular traffic.

Authority: T.C.A. §65-11-101.

1680-12-1-.02 APPLICABILITY.

- (1) Construction or Conversion of Crossings After July 1, 2001.

After July 1, 2001, there shall be no construction of any public crossing, and no conversion of a private crossing to a public crossing, anywhere within the State of Tennessee without the prior review and approval of the Department as provided in these Rules. In addition, no such crossing shall be opened to vehicular traffic until it has been inspected by the Department to assure that it has been constructed or converted in accordance with the plans previously approved by the Department. In those cases where the construction or conversion of a crossing occurs at or on an existing public or private roadway, the crossing shall not be opened to vehicular traffic prior to the Department's final inspection of the construction or conversion, except in accordance with a temporary traffic control plan approved by the Department under these Rules.

- (2) Scope of Review and Approval.

The Department's authority under these Rules is limited to the review and approval of plans for the construction of public crossings, or the conversion of private crossings, and the inspection of such crossings before they are opened to traffic. Apart from its responsibility under these Rules to approve the plans and to inspect the completed construction or conversion, the Department does not have any other authority to permit or require the construction or conversion of grade crossings on roads not designated as being on the state highway system. The decision to construct a public crossing, or to convert a private crossing to a public crossing, on any road not included in the state highway system shall remain with the governmental entity, person and/or railroad having jurisdiction over the road or crossing.

- (3) No Retroactive Effect.

These Rules shall not apply to any grade crossing constructed prior to July 1, 2001, except insofar as the standards established in these Rules may provide the pertinent governmental authority, person or railroad with guidance in evaluating such grade crossings for possible closure.

Authority: T.C.A. §65-11-101.

1680-12-1-.03 DEFINITIONS.

- (1) "AASHTO" means the American Association of State Highway and Transportation Officials.
- (2) "AASHTO Design Manual" means the most current edition and revisions of the AASHTO publication "A Policy on Geometric Design of Highways and Streets.;"
- (3) "Active warning device" means a traffic control device at a grade crossing activated by the approach or presence of a train, such as flashing light signals, bells, automatic gates, or similar devices, that warn motorists and pedestrians of the approach or presence of a train at the crossing.
- (4) "ADT" means average daily traffic.
- (5) "Commissioner" means the Commissioner of the State of Tennessee Department of Transportation.
- (6) "Construction" when used in reference to the construction of a public crossing means any of the following:
 - (a) The actual physical construction of a new public crossing in a location where no grade crossing currently exists; or

- (b) The addition of a lane or lanes to public road at an existing grade crossing;
 - (c) The addition of railroad track or tracks at an existing public crossing.;
- (7) “Conversion” when used in reference to a private crossing means a change in the use or legal status of the roadway at a grade crossing from a private road to a public road.
 - (8) “Department” means the State of Tennessee Department of Transportation.
 - (9) “Exposure” when used in reference to the standards for installing active warning devices at a grade crossing means the product of the average daily traffic on the roadway and the number of train crossings per day on the railroad track.
 - (10) “FHWA” means the Federal Highway Administration, an agency of the United States Department of Transportation.
 - (11) “FRA” means the Federal Railroad Administration, an agency of the United States Department of Transportation.
 - (12) “FRA Highway-Rail Crossing Inventory Manual” means the most current edition and revisions of the FRA publication “Highway-Rail Crossing Inventory Instructions and Procedures Manual.”
 - (13) “Grade crossing” means the at-grade intersection of one or more railroad tracks with a public or private road.
 - (14) “Grade separation” means a bridge, trestle, tunnel, culvert or other structure enabling one or more railroad tracks to cross over or under a public road or private road.
 - (15) “Interconnection” means the communication connection between an active warning device and the roadway traffic controller assembly for the purpose of preemption.
 - (16) “MUTCD” means the most current edition and revisions of the “Manual on Uniform Traffic Control Devices,” which is published by the Federal Highway Administration.
 - (17) “Passive warning device” means a traffic control device, such as a highway sign or marking, located at or in advance of a grade crossing to indicate the presence of a grade crossing but which does not activate or change upon the approach or presence of a train.
 - (18) “Preemption” means the transfer of the normal operation of roadway traffic signals to a special control mode as a result of a signal received from a railroad active warning device system.
 - (19) “Private crossing” means the at-grade intersection of one or more railroad tracks with a private road, where the roadway is a private road on both sides of the grade crossing.
 - (20) “Private road” means a roadway owned by a private person or entity, or by a governmental entity in its proprietary capacity, that is not freely open to use by the public without permission but is available for use only by the owner or the owner’s invitees (as may be evidenced by the presence of gates or no trespassing signs, maintenance by a private person or entity, or other relevant evidence indicative of private ownership and/or restricted use of the roadway) or any roadway determined to be a private road by a court of competent jurisdiction. The entrance of a private driveway onto a public road shall be considered a private road even though the entrance may be located on the public road right-of-way and may be maintained by a governmental entity, unless the private driveway is freely open to use by the public without permission.

- (21) "Public crossing" means the at-grade intersection of one or more railroad tracks with a public road, including any intersection where the roadway on either side of the grade crossing is a public road.
- (22) "Public road" means a roadway owned and/or maintained by a governmental entity or a private entity that is freely open to use by the public without permission, or any roadway determined to be a public road by a court of competent jurisdiction.
- (23) "Rail Safety Office" means the Rail Safety Office in the Public Transportation, Waterways and Rail Division of the State of Tennessee Department of Transportation, or any successor thereof as determined by the Department.
- (24) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.
- (25) "TDOT Standard Roadway Drawings" means the most current edition and revisions of the Department's "English Standard Roadway Drawings," or the most current edition and revisions of the Department's "Metric Standard Roadway Drawings," if applicable.
- (26) "TDOT Standard Specifications for Road and Bridge Construction" means the Department's publication "Standard Specifications for Road and Bridge Construction," 1995 edition, together with the "Supplemental Specifications" as revised and published by the Department.
- (27) "USDOT" means the United States Department of Transportation.
- (28) "USDOT-AAR crossing inventory" means the national inventory of all grade crossings, public and private, which is maintained by the Federal Railroad Administration.

Authority: *T.C.A. §65-11-101.*

1680-12-1-.04 STANDARDS.

- (1) Railroad Track and Crossing Pad Standards.
 - (a) The crossing pad shall be constructed of any paved or panelized crossing surface material compatible with the current practices of the involved railroad, or of such material as the Department may require.
 - (b) Specifications and plans concerning the crossing surface material and use shall comply with the manufacturer's recommendations and the involved railroad's current standards and specifications.
 - (c) The width of the crossing pad at the grade crossing shall correspond to the width of the approach roadway cross section, including but not limited to the traffic lanes and any shoulders, pedestrian walkways and bicycle paths; provided, however, that the crossing pad shall have a minimum width of 32 feet.
 - (d) The crossing pad shall have the same number and width of traffic lanes and shoulders as the approach roadway.
 - (e) Roadway markings shall be provided on the crossing pad in accordance with the MUTCD.
 - (f) Flangeways of not less than 2½ inches nor more than 3 inches in width shall be provided between the rail and the crossing pad, except where track geometry or other track appliances may require otherwise. Flangeways shall be at least 2 inches in depth, except as the involved railroad may otherwise approve.

(g) Materials and specifications shall comply, at a minimum, with the following:

1. Materials.

All track materials used - including but not limited to ties, crossing pads, fasteners, geotextile fabric, drainage tile and other track material - shall be new, except that rail may be No. 1 relay or new.

2. Drainage.

Adequate engineered drainage shall be provided. The drainage design for cross-drainage and trackside shall be based on a 50-year design frequency, checked for 100-year, or on the current design frequency standards of the involved railroad.

3. Ballast.

The ballast and sub-ballast shall be dug out and replaced to a minimum of 10 inches below the bottoms of the ties, a minimum of 2 feet beyond the ends of the ties, and a minimum of 20 feet beyond the end of the crossing pad.

4. Ties.

(i) Where a crossing system requires the use of track ties, the ties shall be made of preservative-treated No. 5 air-dried hardwood of not less than 9 inches wide and not less than 7 inches deep, or the ties shall be made of concrete, steel, plastic or other materials of suitable strength and dimensions, consistent with the standards of the involved railroad. The ties shall be installed through the limits of the crossing and beyond the crossing pad a minimum of 20 feet. The length and spacing of the ties shall conform to the type of grade crossing surface materials being used.

(ii) Where the crossing system design does not require track ties, the crossing system shall be adequate to maintain track gage, surface and alignment as defined by applicable FRA regulations.

5. Rail.

(i) Rail size of 112 pounds per yard, or the current size of rail used on the line, whichever is larger, shall be used through the limits of the crossing and beyond the crossing pad a minimum of 20 feet.

(ii) The rails throughout the crossing shall be installed to eliminate joints within the crossing. The nearest joint shall be not less than 20 feet from the end of the crossing pad. Where necessary, long rails shall be used or the rail ends shall be welded to form continuous rail through the crossing; provided, however, that no welded rail of greater than 400 feet in length shall be used without the approval of the involved railroad.

(iii) Any compromise joints (joints involving two different rail sizes) created by this crossing installation shall be welded or use compromise rail joint bars of the proper size.

(iv) Torch cutting of rail ends or boltholes is prohibited.

6. Rail fasteners, plates and anchors.

Each tie system shall use the appropriate fastener and anchor systems to maintain gage and limit longitudinal rail movement. Where ties with spikes are used, they shall be fully tie-plated with a minimum of four spikes per tie plate, and they shall be fully box anchored, as allowed by the crossing

surface material, through the crossing area and at least 20 feet beyond each end of the crossing pad. Where other systems are used, each tie must be fully attached to both rails in accordance with the system being used.

(h) Railroad alignment design.

Where grade crossings have two or more tracks, the tops of the rails for all tracks shall be brought to the same plane, where practical. All surface geometry design shall be in full compliance with applicable FRA regulations and railroad standards.

(i) Lining and surfacing track.

Rails shall be spiked or fastened to line and the track machined or mechanically tamped and surfaced to the grade and alignment of the existing track and roadway. In order to achieve the optimum ballast compaction through the crossing area, lining and surfacing shall involve two passes at a minimum, allowing as many train movements as time will permit, across the grade crossing before final surface and alignment.

(2) Roadway Standards.

(a) Roadway alignment design.

1. Vertical alignment.

- (i) The surface of the roadway shall be in the same plane as the tops of the rails for a distance of at least 2 feet beyond the rails for either single or multiple-track crossings.
- (ii) The top of the rail plane shall be connected with the grade line of the roadway each way by vertical curves of such length as is required to provide riding conditions and sight distances normally applied to the roadway involved.
- (iii) Unless track superelevation dictates otherwise, the vertical alignment of the roadway shall comply with the current recommended practices stated in the AASHTO Design Manual.

2. Roadway surface cross slope.

- (i) Roadway surface cross slope should be eliminated within 10 feet of the rail at the grade crossing to ensure a proper meet between the roadway and crossing pad surfaces.
- (ii) Pavement transition lengths should be in accordance with TDOT Standard Roadway Drawings and the AASHTO Design Manual.
- (iii) The engineer shall ensure that elimination of the roadway surface cross slope does not cause ponding.
- (iv) Any proposed exceptions based on roadway curvature, superelevation, or other design considerations must be approved by the Department.

3. Horizontal alignment.

The roadway shall be designed to provide no less than a 75-degree approach at the grade crossing, and, if practical, the roadway should be designed to intersect with the railroad track or tracks at a right angle or as near to a right angle as possible. Any proposed exception must be based on an engineering study and approved by the Department. Railroad curves should be avoided when practical.

(b) Roadway surface.

1. Materials and placement.

The roadway shall be paved, at a minimum, within 150 feet of the nearest rail at the grade crossing. The depth and type of the pavement material used, and the placement of the base and pavement, shall comply with all requirements for base and pavement stated in the TDOT Standard Specifications for Road and Bridge Construction.

2. Roadway and lane width.

The width of the roadway at the grade crossing shall correspond to the width of the approach roadway, including traffic lanes and shoulders. The roadway at the grade crossing shall have the same number and width of traffic lanes and shoulders as the approach roadway. In the event that the approach roadway is less than 32 feet wide, a minimum paved approach of 32 feet shall be provided within 25 feet of the nearest rail at the grade crossing, with lane widths remaining the same as on the approach roadway.

3. Roadway markings.

At all paved approaches to the grade crossing, the roadway shall be marked in accordance with the MUTCD.

(c) Drainage.

1. Adequate engineered drainage shall be provided.

2. The following design frequencies based on roadway classification shall be used for drainage design:

(i) Culvert design frequency:

Multi-lane divided roadway:	50-yr.; check 100-yr.
Arterial and collector:	50-yr.; check 100-yr.
Local road:	10-yr.

(ii) Ditch design frequency:

Multi-lane divided roadway:	50-yr.
Arterial and collector:	10-yr.; 50 yr. in sags
Local roads:	10-yr.

(iii) Roadway freeboard:

All roadways:	50-yr.
---------------	--------

(iv) Inlet and sewer design frequency:

Multi-lane divided roadway:	50-yr.
Arterial and collector:	10-yr.; 50-yr. in sags
Local roads:	10-yr.

3. The design frequency selected for cross drainage structures:
 - (i) Shall not significantly increase the flood hazard for adjacent property; and
 - (ii) Shall permit maintenance of vehicular traffic on roads and streets under design flood conditions.
 4. The design frequency for roadway storm drainage structure design:
 - (i) Shall not significantly increase the flood hazard for adjacent property; and
 - (ii) Shall limit the encroachment onto the traveled lanes that could cause a hazard to vehicular traffic.
 5. In situations where the grade of the approach roadway descends toward the grade crossing, provisions shall be made to intercept surface and subsurface drainage and discharge it laterally so that it will not be discharged onto the track area.
- (3) Signage Standards.
- (a) Railroad signs.
 1. The railroad shall erect and maintain a whistling post or whistle board in each direction from the grade crossing along its track(s). The sign will serve to alert operating train crews to the upcoming crossing so that a whistle warning may be sounded. The location of the post or board shall comply with any applicable FRA regulations and railroad company standards or policies.
 2. The railroad shall install and maintain an emergency notification sign at each grade crossing in accordance with the MUTCD. The sign shall show the USDOT-AAR crossing inventory number, the railroad line name, the milepost, the roadway name, and the telephone number to call to report an emergency.
 - (b) Roadway signing and marking.
 1. Passive warning devices shall be installed and maintained on the roadway at grade crossings in accordance with the MUTCD.
 2. When a grade crossing is located at or near a roadway-roadway intersection, signage shall be installed at the intersection in compliance with the MUTCD.
- (4) Standards for Active Warning Devices.
- (a) The Department may require the installation of active warning devices at a grade crossing in accordance with the following minimum criteria, or as the Department may determine after conducting a diagnostic team field review:

:

<u>Type of Active Warning Device</u>	<u>Minimum Criteria</u>
1. Flashing-Light Signals (Post-Mounted) with Automatic Gates:	3,000 or more exposures, or Inadequate sight distances, as determined in accordance with the AASHTO Design Manual, or The roadway at the grade crossing is a designated school bus route, commercial passenger vehicle route, or hazardous material route, or Two or more railroad tracks at the grade crossing that may allow concurrent rail operations, or The presence of a signalized highway intersection within 200 feet of the grade crossing.
2. Flashing-Light Signals (Overhead) with Automatic Gates:	Three or more lanes (including turning lanes) on the roadway at the grade crossing, or 3,000 or more exposures <u>and</u> inadequate sight distances, as determined in accordance with the AASHTO Design Manual.
3. Flashing-Light Signals (see above) with Automatic Four-Quadrant Gates:	20,000 or more exposures <u>and</u> the presence of any passenger train traffic on the railroad.

- (b) All active warning devices required under this Rule shall be installed and maintained in accordance with the MUTCD.
- (c) Whenever a signalized grade crossing is to be located near a signalized highway intersection, pre-emption shall be provided for in compliance with the MUTCD.
- (d) Railroad Circuitry.

In connection with the installation of active warning devices at a grade crossing, the following types of circuitry shall be installed and maintained on the railroad tracks in accordance with the criteria specified below:

<u>Type of Circuitry</u>	<u>Criteria</u>
1. Style C or AC/DC:	Infrequently used tracks.
2. Motion Sensors:	On regularly or frequently used tracks, where there is considerable switching, trains stopped or parked near the grade crossing, or consistent train speed.
3. Constant Warning Time:	On regularly or frequently used tracks with variable train speeds.

(5) Grade Separation.

- (a) Grade separation shall be required, and no grade crossing will be approved, on any roadway/railroad crossing where there is full control of access on the roadway.
- (b) The department may also decline to approve the proposed construction or conversion of a grade crossing where:
 - 1. A grade separation is feasible (based on topographic conditions, cost, and other relevant factors), and
 - 2. Special hazardous conditions exist, including but not limited to the presence of high-speed (75 mph or more) passenger train traffic on the railroad or where trains block the crossing for long periods of time.

(6) Pedestrian Walkways and Bicycle Paths.

- (a) Where federal funds are to be used in paying for all or any part of the costs of installing the grade crossing, provisions for pedestrian walkways and bicycle paths should be considered.
- (b) Any pedestrian walkway or bicycle path included in the grade crossing shall comply with the Americans' With Disabilities Act accessibility guidelines contained in 28 C.F.R., Part 36, Appendix A, or as amended.

Authority: T.C.A. §65-11-101.

1680-12-1-.05 PROCEDURES FOR APPROVALS AND INSPECTIONS.

- (1) Application Requirement.

- (a) Whenever any person, railroad company, or governmental entity other than the Department proposes the construction of a public crossing, as defined in these Rules, or the conversion of a private crossing to a public crossing, as defined in these Rules, the person, railroad company or governmental entity proposing the construction or conversion must submit a written application for approval of the plans to the Rail Safety Office, or to such other office of the Department as the Commissioner may designate.
- (b) The current address of the Rail Safety Office is Suite 1800400, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, and the current telephone number is (615) 741-1341; however, the address and telephone number of the Rail Safety Office may be subject to change without amendment of these Rules.

(2) Information Required in Application.

The applicant shall provide all relevant information regarding the proposed construction or conversion of the grade crossing, as determined by the Department. At a minimum, unless the Department expressly waives any item of information, the application shall contain:

- (a) The name, address, and telephone number of the applicant, and the identity of the contact person;
- (b) The name and address of the railroad company that owns and/or operates trains on the track(s) at the grade crossing, and the identity of the contact person, if known;
- (c) The name and address of the governmental entity having jurisdiction, or which will have jurisdiction, over the roadway at the grade crossing, and the identity of the contact person;
- (d) Maps or other documentation showing:
 1. The general and specific location of the proposed construction or conversion of the grade crossing;
 2. The USDOT-AAR crossing inventory number, if assigned, and the railroad milepost number for the crossing;
 3. The geodetic coordinates of the grade crossing;
 4. Existing patterns of traffic for:
 - (i) emergency vehicles;
 - (ii) school buses;
 - (iii) vehicles carrying hazardous materials; and
 - (iv) trucks;
 5. The distance in each direction along the roadway to any public road intersection within 2,500 feet of the grade crossing, the type of public roads, and the type of roadway signs and markings and/or traffic control devices, if any, at each such intersection; and
 6. The distance in each direction along the railroad track(s) to any public road intersection within one mile of the grade crossing, the type of public roads, the type of crossing (grade crossing or grade separation), and the type of passive warning devices and/or active warning devices, if any, at each such crossing;

7. The distance in each direction along the railroad track(s) to any intersection or junction with another railroad track within two miles of the grade crossing;
 8. Sight distance calculations, consistent with the AASHTO Design Manual, for the presence of any objects or features that obstruct the view from a vehicle on the roadway to the grade crossing or the approaching train;
- (e) Plans for the construction or conversion showing:
1. The present and proposed grade and alignment of the roadway within 500 feet of the grade crossing, or within 100 feet beyond the limit of work, whichever is less;
 2. The present and proposed grade and alignment of the railroad track(s) within 200 feet of the grade crossing;
 3. The present and proposed right-of-way limits of the roadway and railroad at the grade crossing; and
 4. The presence of any objects that could obstruct the view from a vehicle on the roadway to the grade crossing or the approaching train
- (f) Construction details, including but not limited to the typical roadway cross-section;
- (g) The temporary traffic control plan, or plan for the detour of vehicular traffic, during construction;
- (h) The proposed schedule of construction or conversion;
- (i) The existing ADT and the projected 5-year and 20-year ADT on the roadway at the grade crossing;
- (j) The percentage of trucks at the grade crossing;
- (k) The design speed of the roadway and the posted speed limits of vehicles using the roadway at the grade crossing;
- (l) The existing -frequency of trains, types of trains (passenger, freight or switching), and the maximum and average speeds of trains using the railroad track(s) at the grade crossing;
- (m) The existing and proposed roadway signs, markings, or other traffic control devices, and any existing and/or proposed passive warning devices, active warning devices and interconnections, at the grade crossing; and
- (n) A list of any alternatives to the proposed construction or conversion that have been considered by the applicant, including but not limited to the feasibility of a grade separation rather than at-grade crossing.
- (3) Preparation of Plans by Registered Engineer.
- All engineering plans, specifications and calculations required by the Department, as in subparagraphs (2)(d) through (2)(n) above, shall be prepared by a registered engineer licensed in the State of Tennessee.
- (2) Review of Applications.

- (a) Upon receipt of an application, together with the required application fee as described in Rule 1680-12-1-.07 below, the Rail Safety Office, or such other office of the Department as the Commissioner may designate, shall promptly send notice of the application to the railroad company that owns and/or operates trains on the track(s) and the governmental entity having or which will have jurisdiction over the roadway at the location of the proposed construction or conversion of the grade crossing.
 - (b) The Rail Safety Office, or other designated office, shall review the application for the proposed construction or conversion in accordance with the standards established in these Rules. That office may obtain the assistance of other employees within the Department as it may deem appropriate, and, in accordance with any contract approved by the Commissioner, it may obtain the services of an independent consultant to assist in reviewing the application.
 - (c) The Rail Safety Office, or other designated office, may determine that a field review by a diagnostic team is appropriate in order to conduct an adequate investigation and review of the proposed construction or conversion. The diagnostic team shall include such employees of the Department, or independent consultants hired by the Department, and such other persons as the Rail Safety Office, or other designated office, may deem appropriate in each case.
 - (d) Upon completing such review, the Rail Safety Office, or other designated office, shall make a preliminary recommendation to approve, reject, or request a modification of the proposed construction or conversion in accordance with the standards established in these Rules. The applicant shall be given notice of this preliminary recommendation and an opportunity, not to exceed 30 days, in which to respond to the preliminary recommendation.
 - (e) The preliminary recommendation shall also be submitted to the FHWA, the affected local government, and the affected railroad, if different than the applicant, and these entities shall be given an opportunity, not to exceed 30 days, in which to review and comment on the application and the Department's preliminary recommendation.
 - (f) The Rail Safety Office, or other designated office, shall consider any response received from the applicant and any comments received from the FHWA, the affected local government, and the affected railroad, if different from the applicant. Upon completing this final review and consideration, the Rail Safety Office, or other designated office, shall make a final recommendation to the Commissioner to approve, reject or modify the proposed construction or conversion.
 - (g) Upon receiving the final recommendation, the Commissioner shall make the decision to approve or reject the proposed construction or conversion, or to approve the proposed construction or conversion subject to modification. The Commissioner's decision shall be final.
 - (h) Upon receiving the Commissioner's decision, the applicant shall notify the Rail Safety Office, or other designated office, regarding the applicant's intent to proceed with the construction or conversion as approved by the Department, including the date upon which the construction or conversion is expected to begin.
- (5) Construction or Conversion by the Department.
- (a) In the case of any construction or conversion of a grade crossing proposed by the Department, the Department shall conduct an internal review of the proposed construction or conversion to assure compliance with the standards established under these Rules. This internal review shall be conducted in accordance with such policies and procedures as the Commissioner may deem appropriate.

- (b) Before making a final decision to proceed with the proposed construction or conversion, the Department shall submit its proposal to the FHWA, the affected local government, and the affected railroad for review and comment as provided in paragraph (4)(e) above.
- (6) Inspections.
- (a) At or near the completion of the proposed construction or conversion, the applicant shall notify the Rail Safety Office, or other designated office, of the completion date and request a final inspection before opening the completed grade crossing to vehicular traffic.
 - (b) The Rail Safety Office, or other designated office, shall perform a final inspection to assure that the construction or conversion of the grade crossing has been completed in accordance with the plans approved by the Department. That office may obtain the assistance of other employees within the Department as it may deem appropriate, and, in accordance with any contract approved by the Commissioner, it may obtain the services of an independent consultant to assist in performing the inspection. The Department shall charge the applicant inspection fee, as provided in Rule 1680-12-1-.07 below.
 - (c) Upon completing the final inspection, the Rail Safety Office, or other designated office, shall notify the applicant in writing that:
 - 1. The construction or conversion has been completed in accordance with the plans approved by the Department and may be opened to vehicular traffic; or
 - 2. The construction or conversion has not been completed in accordance with the plans approved by the Department and may not be opened to vehicular traffic. In such a case, the Department shall identify the deficiency in the construction or conversion that the applicant must correct before the grade crossing may be opened to vehicular traffic. Upon correcting the deficiency, the applicant shall so notify the Department and again request a final inspection, subject to payment of an inspection fee, as provided in this Rule.

Authority: T.C.A. §65-11-101.

1680-12-1-.06 COSTS OF CONSTRUCTION OR CONVERSION.

Any developer, individual, corporation or other private entity proposing the construction or conversion of a grade crossing shall be responsible for all costs associated with the construction or conversion of such crossing in compliance with the plans approved by the Department.

Authority: T.C.A. §65-11-101.

1680-12-1-.07 FEES:

- (1) General.

The Department shall charge a fee for the review and approval of plans for the construction or conversion of grade crossings and for the inspection of the completed crossings. Such fees shall be sufficient to offset the cost to the Department of performing these services, and any such fee shall be paid by the applicant seeking approval of the plans for the crossing.

(2) Application Fee.

Each application to the Department requesting review and approval of plans for the construction of a public crossing or conversion of a private crossing in accordance with these Rules shall be accompanied by the payment of an application fee in the amount of \$3,000. This fee shall be made payable to the Department.

(3) Inspection Fee.

Each notice of request to the Department to perform a final inspection of the completed construction or conversion shall be accompanied by the payment of an inspection fee in the amount of \$1,000. This fee shall be made payable to the Department.

Authority: T.C.A. §65-11-101.

The public necessity rules set out herein were properly filed in the Department of State on the 16th day of January, 2002, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the day of the the 30th day of June, 2002. (01-32)

RULEMAKING HEARINGS

DEPARTMENT OF CHILDREN'S SERVICES - 0250 ADMINISTRATIVE PROCEDURES DIVISION

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(a) and 37-5-301 et seq. 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 Cumberland Room on the ground floor of the Cordell Hull Building located at 436 6th Avenue North, Nashville, Tennessee, 37243 at 9:00 a.m., central standard time on the 22nd day of April, 2002.

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, 436 6th Avenue North, Nashville, Tennessee, 37243, 615-741-9175.

For a copy of this notice of rulemaking hearing, contact: Isiah Davis, Victims Rights Liaison, on the 9th floor of the Cordell Hull Building, 436 6th Avenue North, Nashville, Tennessee, 37243; (615)741-9714.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0250-6-1 PUBLIC NOTIFICATION OF RELEASE OF JUVENILE OFFENDER

NEW RULES TABLE OF CONTENTS

0250-6-1-.01 Purpose of Chapter	0250-6-1-.04 Confidentiality
0250-6-1-.02 Definitions for Purposes of This Chapter	
0250-6-1-.03 Procedures for Add: Public notification of Release of Juvenile	

0250-6-1-.01 PURPOSE OF CHAPTER

The purpose of this rule is, in accordance with T.C.A. § 37-5-123, to provide procedures for the Department of Children's Services and/or its contractors for the notification of the release of juveniles adjudicated to have committed a delinquent act that would constitute a felony if committed by an adult from a facility operated by or under contract with the Department to home placement.

Authority: T.C.A. § 37-5-123

0250-6-1-.02 DEFINITIONS FOR PURPOSES OF THIS CHAPTER

- (1) **Delinquent Act:** An act designated a crime under the law, including local ordinances of this state, or of another state if the act occurred in that state, or under federal law, and the crime is not an offense which is applicable only to a child and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to T.C.A. § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony.
- (2) **Department:** Means the Department of Children's Services.
- (3) **Home Placement:** Placement of a delinquent child in the home of a parent or guardian under the continuing supervision of the Department. Placing a child on home placement terminates the Department's legal custody of a delinquent child.
- (4) **Release Notification Committee:** A committee formed to determine the disposition of Request for Notification of Release of Juvenile Offender. The committee shall be composed of the Victim's Rights Liaison, Assistant Director of Institutions, Director of Community Residential Facilities, DCS Director of Legal Services, and Director of Field Operations.

Authority: T.C.A. §§ 37-5-123 and 37-1-102

0250-6-1-.03 PROCEDURES FOR ADD: PUBLIC NOTIFICATION OF RELEASE OF JUVENILE

- (1) All requests for Add: Public notification of the release of a juvenile directed to the Department Victim's Rights Liaison or designee.
- (2) After review of the request, a Request for Add: Public Notification of Release of Juvenile Offender shall be forwarded to the requestor by the Victim's Rights Liaison or designee.
- (3) Upon receipt of the completed Request for Add: Public Notification of Release of Juvenile Offender from the requestor, the Victim's Rights Liaison shall contact the youth's residential case manager to confirm if a release staffing has been convened and if a projected release date has been determined or pending.
- (4) The Victim's Rights Liaison shall maintain a file and track proposed release dates on all juveniles for which a Request for Add: Public Notification of Release of Juvenile Offender form has been received.
- (5) In conjunction with DCS Policy 12.1(A)(2), for all delinquent youth the residential case manager must forward a Return to Home Placement form and a treatment summary documenting the youth's progress in all IPP areas to the youth's home county case manager and the Victim's Rights Liaison at least 45 days prior to the youth's projected return home.
- (6) The Victim Rights Liaison shall verify if a Request for Add: Public Notification of Release of Juvenile Offender form has been received for any delinquent youth who is proposed to be released.
- (7) If a notification form is on file, the Victim's Rights Liaison shall convene the Release Notification Committee.
- (7) Responsibilities of the Notification of Release Committee

- (a) A Release Notification Committee meeting must be convened and a determination completed at least 20 days prior to the proposed release date.
- (b) The Release Notification Committee shall be responsible for determining whether to approve or deny a notification on a case-by-case basis.
- (c) The Release Notification Committee shall approve the Request for Notification unless:
 - 1. The classification of the delinquent act would not have been a felony if committed by an adult; or
 - 2. The committee determines on a case-by-case basis that the denial of the request would be in the best interests of the juvenile and may result in harm to the juvenile.
 - 3. In determining the risk of harm to the juvenile the Release Notification Committee may consider the following:
 - (i) The characterization of the requesting party as victim or as member of the public.
 - (ii) Threats to the child or child's family.
- (8) The Victim's Rights Liaison shall send written notice to the requestor of the determination made by the Release Notification Committee with regards to denial or approval of the notification request.

Authority: T. C. A. § 37-5-123

0250-6-1-.04 CONFIDENTIALITY

- (1) The notification of the release of a juvenile shall contain only the juvenile's name and date of the release to home placement. The notification shall not contain the address or the telephone number of the juvenile's home placement.

Authority: T. C. A. § 37-5-123, 37-5-107

The notice of rulemaking out herein was properly filed in the Department of State on the 31st day of January, 2002. (01-55)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780
DIVISION OF FIRE PREVENTION

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of amendments to rules pursuant to T.C.A. '68-102-113 and '68-120-101. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. '4-5-202, and will take place in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:30 a.m. (CST) on the 25th day of March, 2002.

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

For a copy of this notice of rulemaking hearing, contact: John Byrnes, Director of Codes Enforcement, Division of Fire Prevention, Department of Commerce and Insurance, 500 James Robertson Parkway, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-7190.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-2-3
REVIEW OF CONSTRUCTION PLANS AND SPECIFICATIONS

AMENDMENTS

Rule 0780-2-3-.04 Fees is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, paragraph (1) shall read as follows:

- (1) The fee for review of plans and specifications for construction shall be as specified in the following table:

Total Project Construction Cost \$0.00 to \$1,000,000.00	Fee \$2.00 per thousand or fraction thereof (\$200.00 minimum).
\$1,000,000.01 or more	\$2,000.00 for the first \$1,000,000.00 plus \$1.50 for each additional thousand or fraction thereof.

Such fee shall be payable at the time of initial submission of plans and specifications.

- (a) If a State building or educational occupancy is also reviewed for compliance with building construction safety standards by a local government which has obtained the exemption authorized by T.C.A. '68-120-101(b)(2), the fee for review under this chapter shall be reduced by fifty percent (50%), but the fee shall not be less than two hundred dollars (\$200.00).
- (b) If plans and specifications must be resubmitted because their approval has become invalid under paragraph (2) of rule 0780-2-3-.05, the fee established in this rule will be imposed.

Authority: T.C.A. §§68-102-113 and 68-120-101(d).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of January, 2002. (01-52)

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 25th day of April, 2002.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENT

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting subparagraphs (2) (b) and (2) (e) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (3) but not all its subparagraphs in its entirety and substituting instead the following language, and is further amended by deleting subparagraphs (3) (a), (3) (b), and (3) (c) in their entirety and substituting instead the following language so that as amended, the new subparagraphs (2) (b) and (2) (e), the new paragraph (3) but not all its subparagraphs, and the new subparagraphs (3) (a), (3) (b), and (3) (c) shall read:

- (2) (b) Each dentist, dental hygienist, and registered dental assistant must, on their biennial renewal application, attest to attendance and successful completion of the required continuing education hours and that such hours were obtained during the calendar years of report.
- (2) (e) Any practitioner who, on their biennial renewal application, attests to attendance and successful completion of the required continuing education which in any way is not true will be subject to disciplinary action pursuant to T.C.A. §§ 63-5-124 (a) (1), (2), (3), (7) and (18).
- (3) Continuing Education Course Approval - Courses to be offered for credit toward the continuing education requirement must, unless otherwise provided, receive prior approval from the Board.
 - (a) Course approval procedure for course providers - Unless otherwise provided, all courses shall be offered within Tennessee.
 - 1. To obtain prior approval the course provider must have delivered to the Board's Administrative Office at least thirty (30) days prior to a regularly scheduled meeting of the Board that precedes the course, documentation which includes all of the following items which must be resubmitted if changes are made after receipt of approval from the Board:
 - (i) course description or outline.
 - (ii) names of all lecturers.
 - (iii) brief resume of all lecturers.
 - (iv) number of hours of educational credit requested.
 - (v) date of course.
 - (vi) copies of materials to be utilized in the course.
 - (vii) how verification of attendance is to be documented.
 - 2. Under no circumstances shall continuing education courses be approved if the materials required by subparts (3) (a) 1. (i) through (3) (a) 1. (vii) are not received at least thirty (30) days prior to a regularly scheduled meeting of the Board at which approval is sought that precedes the course.
 - 3. Notwithstanding the provisions of subparagraph (3) (a), any clinic, workshop, seminar or lecture at national, regional, state and local meetings of dentists, dental hygienists, and dental assistants will be recognized for continuing education credit by the Board if
 - (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
 - 4. Notwithstanding the provisions of subparagraph (3) (a), out-of-state continuing education providers may seek course approval if they are a dental, dental hygiene, or dental assisting regulatory agency or association from a state that borders Tennessee; and

- (i) the course provider has complied with the provisions of parts (3) (a) 1. and (3) (a) 2.; or
 - (ii) the course provider is exempt from needing prior approval as provided in subparagraph (3) (d).
- (b) Course approval procedure for individual licensees and registrants.
- 1. Any licensee or registrant may seek approval to receive credit for successfully completing continuing education courses by complying with the provisions of subparagraph (3) (a).
 - 2. To retain course approval, the licensee or registrant must submit a course evaluation form, supplied by the Board, to the Board's Administrative Office within thirty (30) days after successfully completing the course.
- (c) Continuing education courses may be presented in the traditional lecture and classroom formats or, with successful completion of a written post experience examination to evaluate material retention, in Multi-Media formats. Multi-Media courses may include courses utilizing:
- 1. The Internet
 - 2. Closed circuit television
 - 3. Satellite broadcasts
 - 4. Correspondence courses
 - 5. Videotapes
 - 6. CD-ROM
 - 7. DVD
 - 8. Teleconferencing
 - 9. Videoconferencing
 - 10. Distance learning

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-5-105, 63-5-107, 63-5-117, and 63-5-124.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of January, 2002. (01-45)

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

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at the McKenzie City Hall, 2470 East Cedar, McKenzie, Tennessee on March 19, 2002, at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

Site Number	Site Name
	Carroll County (09)
09-504	Gaines Manufacturing Co. McKenzie, TN

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of January, 2002. (01-50)

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

There will be a hearing conducted by the Division of Superfund on behalf of the Solid Waste Disposal Control Board to receive public comments regarding the promulgation of amendment of rules pursuant to T.C.A. Sections 68-212-203 and 68-212-215. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place at Tennessee Department of Environment and Conservation, Chattanooga Environmental Assistance Center, Main Auditorium, 540 McCallie Street, Chattanooga, Tennessee on March 20, 2002 at 6:00 p.m. Individuals with disabilities who wish to participate should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten (10) days prior to the hearing date to allow time to provide such aid or services. Contact: Tennessee Department of Environment and Conservation, ADA Coordinator, 7th Floor Annex, 401 Church Street, Nashville, TN 37248, (615)532-0059. Hearing impaired callers may use the Tennessee Relay Service, (1-800-848-0298)

SUBSTANCE OF PROPOSED RULES

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

AMENDMENTS

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

Site Number	Site Name
Hamilton County (33)	
33-599	D.M. Steward Manufacturing Chattanooga, TN

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of January, 2002. (01-53)

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400
DIVISION OF WATER SUPPLY

There will a hearing before the Division of Water Supply Staff representing the Water Quality Control Board of the Department of Environment and Conservation to hear comments from the public concerning amendments to the Regulations for Public Water Systems and Drinking Water Quality Chapter 1200-5-1 pursuant to T.C.A. 68-221-701 et seq. The proposed amendments were drafted primarily to incorporate into state regulations revisions to the arsenic regulations promulgated by the EPA January 22, 2001.

Fleming Training Center, 2022 Blanton Drive, Main Auditorium, Murfreesboro, TN, 10:00 AM CST, March 20, 2002.

Written comments will be also considered if received at the Division of Water Supply, 401 Church Street, Nashville, TN 37243-1549 by the close of business March 29, 2002.

Individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone, or other means and should be made no less than ten days prior to the (scheduled meeting date) (date such party intends to review such filings), to allow time to provide such aid or service. Contact the ADA Coordinator, 401 Church Street, 7th Floor L & C Tower, Nashville, TN 37243, 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

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

RULESUMMARY

CHAPTER 1200-5-1
PUBLIC WATER SYSTEMS

This rule revises the maximum contaminant level, monitoring, and analytical requirements for arsenic in drinking water at community and non-transient non-community water systems. The maximum contaminant level is revised from 0.05 mg/L to 0.01 mg/L effective January 23, 2006. It also clarifies compliance for state determined monitoring after exceedances for inorganic, volatile organic, and synthetic organic contaminants. It updates the public notice and consumer confidence regulations to include the revised arsenic standard.

The notice of rulemaking set out herein was properly filed in the Department of State on the 23rd day of January, 2002. (01-41)

**DEPARTMENT OF FINANCE AND ADMINISTRATION - 1200
BUREAU OF TENNCARE**

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. 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 Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, TN at 9:00 a.m. C.S.T. on the 18th day of March 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULES

Rule 1200-13-6-.07 Submission of Cost Reports By Providers is deleted in its entirety and replaced by a new rule 1200-13-6-.07 which shall read as follows:

1200-13-6-.07 SUBMISSION OF COST REPORTS BY PROVIDERS. Medicaid program providers of Level I nursing facility services will be required to submit to the Comptroller of the Treasury a pro-forma (budgeted) cost report upon beginning participation as a new provider. New providers shall file a first actual cost report within six (6) or nine (9) months of commencing operations, depending on proximity of starting date to fiscal year end. Leases and changes of ownership are not considered new providers for this purpose and thus no budgeted cost reports are filed for leases or changes in ownership. Thereafter, cost reports shall be filed at their fiscal year end and submitted on forms described in rule 1200-13-6-.08. The report shall be due within three (3) months after the end of the designated fiscal period. An extension may be requested for due cause. Such cost reports must be completed in accordance with Medicare reimbursement principles except where these rules may specify otherwise. In the event that the provider does not file the required cost report by the due date, the provider shall be subject to a penalty of ten dollars (\$10.00) per day in accordance with state law. In the event that a provider discovers a significant omission of costs, it may file an amended cost report at any time prior to the due date of its next annual cost report. After that time, the cost report cannot be amended for cost omissions. Amended cost reports shall be subject to the same requirements as other cost reports, and will be the only accepted means to claim omitted costs. Rate increases resulting from submission of omitted costs will not be retroactive.

Paragraph (1) of rule 1200-13-8-.08 Submission of Cost Reports By Providers is deleted in its entirety and replaced by a new paragraph (1) which shall read as follows:

- (1) In-state and out-of-state Providers of Medicaid Level II nursing care will be required to contract with the Department and submit to the Comptroller of the Treasury a pro-forma (budgeted) cost report upon beginning participation as a new provider. Leases and changes of ownership are not considered new providers for this purpose and thus no budgeted cost reports are filed for leases or changes in ownership. Thereafter, cost reports shall be filed at their fiscal year end on forms designated by the Department. The report shall be due within three (3) months after the end of the designated fiscal period or the alternative due date designated by Medicare if applicable. An extension may be requested for due cause. Such cost reports must be completed in accordance with Medicare reimbursement

principles except where these rules may specify otherwise. All covered charges are to be in accordance with the Medicaid Program definition of covered services. Also, all charges to Medicaid recipients must be made consistently and in accordance with the providers schedule of charges in effect for the period covered for all patients. In the event that a provider does not file the required cost report by the due date, the provider shall be subject to a penalty of ten dollars (\$10.00) per day in accordance T.C.A. 12-4-304. In the event that a provider discovers a significant omission of costs, it may file an amended cost report at any time prior to the due date of its next annual cost report. After that time, the cost report cannot be amended for cost omissions. Amended cost reports shall be subject to the same requirements as other cost reports, and will be the only accepted means to claim omitted costs. Rate increases resulting from submission of omitted costs will not be retroactive.

Authority: T.C.A. §§4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of January, 2002. (01-54)

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

**CHAPTER 1200-11-3
CHILDREN'S SPECIAL SERVICES**

There will be a hearing before the Tennessee Department of Health to consider the promulgation of Chapter 1200-11-3 pursuant to T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. This meeting will take place in the Jackson Room located on the ground floor of the Cordell Hull Building located at 425 5th Avenue, North, Nashville, Tennessee, at 9:00 A.M. on the 22nd day of March 2002.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Department of Health to discuss any auxiliary aide 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 made be made with the Department of Health's ADA Coordinator at 11th Floor, Andrew Johnson Tower, 710 James Robinson Parkway, Nashville, TN 37247, telephone 615-741-6350

For a copy of this notice of rulemaking hearing, contact: Mary Jane Dewey, 425 Fifth Avenue, North, Cordell Hull Building, 5th Floor, Nashville, TN 37247-4701, (615) 741-7335.

SUBSTANCE OF PROPOSED RULES

TABLE OF CONTENTS

1200-11-3-.01	Statement of Purpose	1200-11-3-.06	Standards of Care
1200-11-3-.02	Definitions	1200-11-3-.07	Out-of-State Treatment
1200-11-3-.03	Eligibility Requirements	1200-11-3-.08	Closure of Cases and Appeals
1200-11-3-.04	Covered Services		
1200-11-3-.05	Authorization and Reimbursement for Services		

1200-11-3-.01 STATEMENT OF PURPOSE.

- (1) In an effort to provide more comprehensive services to children with special health care needs in Tennessee, the Department of Health merged the Crippled Children’s Services and the Speech and Hearing Services into one unit and implemented care coordination services to children enrolled in the program in 1992. The program was then identified as the Children’s Special Services (CSS) program. The implementation of the TennCare managed care system with the resulting enrollment of previously non-Medicaid eligible CSS population requires the Department to redefine the CSS program’s medical and financial eligibility, provider network, covered services, and reimbursement methods. Children with special health care needs, especially those who are uninsured now have access to insurance through TennCare. The program recognizes the need to serve a broader group of children with special health care needs who meet the T.C.A 68-12-102 definition of “physically handicapped”. Program resources will provide for diagnostically related necessary services for enrolled children when other payors will not provide coverage.

Authority: T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.

1200-11-3-. 02 DEFINITIONS. Unless otherwise specifically indicated by the context, for the purpose of these rules and regulations, the terms used herein are defined as follows.

- (1) Assistive Technology/Augmentative Communication Devices - Any device or equipment that may promote independence and communication skills for children unable to utilize typical methods for independence.
- (2) Care Coordination/Case Management - Services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.
- (3) Commissioner - The Commissioner of the Tennessee Department of Health or the Commissioner’s designee.
- (4) Department - The Tennessee Department of Health.
- (5) Diagnostic Condition - Diagnoses specifically designated by the program as conditions qualifying a child for program eligibility.
- (6) Diagnostic Evaluation - Physical examinations, medical procedures, laboratory tests, or other procedures deemed necessary for diagnosis.
- (7) Durable Medical Equipment - Durable Medical Equipment means equipment that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is appropriate for use in the home. Orthotics, Prosthetics, and Communication Aid Devices are also included in the definition of “Durable Medical Equipment”.

- (8) Elective Hospital Admission - Any hospital admission for conditions or treatments not immediately necessary to save the patient's life or prevent impending harm.
- (9) Family - For the purpose of the CSS program, a family is defined as follows:
 - (a) Two or more persons related by birth, marriage, or adoption, which reside together. (If a household includes more than one family, the guidelines are applied separately to each family.)
 - (b) A person eighteen (18) years of age or older who is not living with any relative;
 - (c) A child under eighteen (18) years of age and his/her non-parent custodians when financial responsibility has been assigned to them by the court; or
 - (d) Parents of a child under eighteen (18) years of age when the child has been voluntarily placed outside the parent's home.
- (10) Hospitalization - Any overnight stay in a hospital capable of providing the type of service(s) needed by the child and licensed pursuant to applicable regulations and/or statutes.
- (11) Inpatient Hospital Services - Medical and surgical services (including screening, diagnostic, therapeutic, corrective, preventive, and palliative services) and facility usage charges (including room and board) provided during hospitalization in a licensed hospital.
- (12) Medical Services - Medical, surgical, and rehabilitative treatment for conditions related to an approved diagnostic condition.
- (13) Medically Related Services - Services deemed necessary to follow the treatment plan for an approved medical condition.
- (14) Orthodontic/Dental Intervention - Medical, surgical, and rehabilitative treatment for conditions related to an approved cranial-facial diagnostic condition.
- (15) Outpatient Hospital Services - Medical and surgical services (including screening, diagnostic, therapeutic, corrective, preventive, and palliative services) and facility usage charges (including temporary room and board) provided as an outpatient service by a licensed hospital or hospital-based Ambulatory Surgical Treatment Center.
- (16) Outpatient/Clinic Services - Diagnostic evaluation or treatment services delivered in a public or private setting outside of the hospital.
- (17) Pharmaceuticals and Supplies - Medications and supplies necessary for treatment related to a diagnostic condition covered by the program.
- (18) Physically handicapped or crippled child - A child under the age of twenty-one (21) who shall be deemed "chronically handicapped" by any reason of physical infirmity, whether congenital or acquired, as a result of accident or disease, which requires medical, surgical, dental, or rehabilitation treatment, and who is or may be, totally or partially incapacitated for the receipt of a normal education or for self support. This definition shall not include those children whose sole diagnosis is blindness or deafness; nor shall this definition include children who are diagnosed as psychotic. This definition does not prohibit CSS from accepting for treatment children with acute conditions such as, but not necessarily limited to, fractures, burns and osteomyelitis.
- (19) Provider - A person, persons, or facility giving direct service to the child as outlined in the child's plan of treatment.

- (20) Rehabilitation - Services required to assist the individual to achieve or maintain independence. Rehabilitative services may include physical, speech/language, nutritional/feeding, and occupational therapies.
- (21) Resident of Tennessee - A person who has established a bona fide residence in Tennessee. The test for such residence is (1) an intention to stay indefinitely in a place, joined with (2) some objective indication consistent with that intent, e. g., enrollment of a child in school.
- (22) Support Services - Activities that may be necessary to assist the individual or family to access medically necessary and/or recommended care to participate in the activities of daily living.
- (23) TennCare - The State of Tennessee Medicaid Waiver program that replaced the State's Medicaid program. The TennCare Bureau contracts with managed care organizations (MCOs) to provide a network of providers to serve TennCare enrolled children.
- (24) Third Party Payor - The payment for health care by a party other than the beneficiary.
- (25) Title V Children with Special Health Care Needs (CSHCN) - The Federal Title V CSHCN section of the Title V Maternal and Child Health CSHCN Block Grant that supports the program.

Authority: *T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.*

1200-11-3-.03 ELIGIBILITY REQUIREMENTS.

- (1) Any child from birth to twenty-one years of age who is a resident of Tennessee will be deemed eligible for medical services, medically related services, and care coordination through the CSS program provided the child meets the diagnostic and financial guidelines as established by the program.
- (2) Any child from birth to twenty-one years of age who is a resident of Tennessee and enrolled in TennCare will be deemed eligible for care coordination (case management) services, provided the child meets the diagnostic guidelines as established by the program and staff are available to provide these services.
- (3) Any child with a diagnosis of cystic fibrosis can remain on the program past the age of 21 years until their demise.
- (4) Financial eligibility will be determined based on an amount equal to, or a percentage rate above, the Federal Poverty Guidelines as published annually in the Federal Register. Children will be eligible if the family income is at or below 200% of poverty, for the number in the family. When a family has more than one (1) child with an eligible condition, one person may be added to the total number of family members when determining eligibility. Family is defined in Rule 1200-11-3-.02.
 - (a) Income shall include:
 1. wages, salaries, and/or commissions;
 2. income from rental property or equipment;
 3. profits from self-employment enterprises, including farms;
 4. alimony and/or child support;
 5. inheritances;

6. pensions and benefits; and
 7. public assistance grants.
- (b) After the gross monthly income of the family is determined, it may be adjusted for the following:
1. verification of medical payments including medical or health insurance premiums made by the family for any family member during the previous twelve (12) months. The amount of such payments shall be prorated over twelve (12) months and deducted from the gross monthly income.
 2. verification of child support or alimony paid to another household which shall be deducted from the gross monthly income.
- (5) The family's adjusted gross monthly income must be at or below 200% Federal Poverty Level, (FPL) in effect at the time of application for program enrollment. Enrolled children will be re-certified annually.
- (a) Re-certification by TennCare for children enrolled in TennCare, will be accepted as re-certification for this program. In the event that TennCare does not re-certify enrollees for a period of time, CSS will re-certify children every two years. Children with TennCare coverage who are enrolled in CSS will continue in the program until their status with TennCare changes or the diagnosis for which they were enrolled is ameliorated.
 - (b) Children with private insurance coverage will be re-certified annually by the program.
 - (c) Children without insurance coverage who meet the financial and diagnostic guidelines will be enrolled in the program and assisted with application for TennCare.
- (6) The child's medical diagnosis may determine the level of financial or supportive services provided by the program.
- (7) As a condition of eligibility, children who have access to other health insurance whose family has income below 200% FPL must apply for coverage under TennCare. In the event that a child is then covered and also enrolled in the program, the CSS program will be the payor of last resort and coordinate benefits.

Authority: *T.C.A. §§4-5-202, 68-1-103, 68-12-103, and 68-12-112.*

1200-11-3-.04 COVERED SERVICES.

- (1) Covered services are those described in Rule 1200-11-3-.02 that are not covered by other payors and are limited to those that directly relate to the diagnostic condition which made the child eligible for the program. Covered services may include: inpatient hospitalization; outpatient hospitalization or clinic services; care coordination services; orthodontic/dental intervention; pharmaceuticals and supplies such as medication, nutritional supplements, other supplies; durable medical equipment; rehabilitative therapies, assistive technology/augmentative communication devices, co-pay and deductibles; or other support services as determined by the Commissioner and the program. This benefit may include rental or purchase of durable medical equipment; maintenance, repair, or replacement of durable medical equipment; and, where appropriate, training of the enrollee or the enrollee's family in the use of the equipment. For children with other insurance payors, those resources will be exhausted before the program considers payment. Any payment for services will conform to policies and procedures of the CSS program.
- (2) Services not covered.

- (a) Transplant surgeries will not be covered. Drugs and supplies directly related to the transplant will also not be covered.
 - (b) Drug treatments will not be reimbursed unless the drug is FDA approved for the purpose intended.
 - (c) Dental and Orthodontic treatment will not be covered except in craniofacial malformations, cleft palate conditions, and designated cardiac conditions as outlined in program policy.
 - (d) Psychiatric treatment and psychological services will not be covered.
 - (e) Alcohol and drug treatment will not be covered.
 - (f) Ambulance fees and transportation will not be covered except for emergency transportation from one hospital to another.
 - (g) Children admitted to a nursing home for continuous or episodic care will not be covered for CSS services until discharged.
- (3) The type and amount of covered services will be determined by the availability of funds. When budgetary constraints are indicated, the department may:
- (a) create a waiting list of patients requesting elective hospital admissions. (The waiting list will be evaluated on a monthly basis and elective admissions will be approved according to availability of funds.);
 - (b) eliminate in-patient hospitalization services as defined in 1200-11-3-.02, except for life-threatening conditions and conditions that would cause a permanent disability, if not treated immediately;
 - (c) eliminate services for less severe diagnostic categories as designated by the program; or
 - (d) reduce the type and amount of support services, durable medical equipment, care coordination, or other covered services.

Authority: T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.

1200-11-3-.05 AUTHORIZATION AND REIMBURSEMENTS FOR SERVICES.

- (1) Except for applicable deductibles, co-insurance, and/or co-payment, no reimbursement shall be made for covered services rendered under these rules, unless available third party payors, such as TennCare or private insurance, have been exhausted.
- (2) After all third party payors have been exhausted, or in the event no third party payors are available, reimbursement for covered services shall be in accordance with these rules.
- (3) Services must be authorized by the CSS program for reimbursement and must relate to the diagnosis for which the child is eligible for the program.
- (4) Additional and concurrent charges over and above the amount covered by third party payors, as provided in these rules, shall not be submitted to the family. This does not preclude a family or other party from making a contribution toward the care of the child when they are willing and able but such contributions shall not be solicited or accepted from the family of a child on TennCare for services covered in whole or in part by TennCare.

- (5) Reimbursement.
 - (a) Reimbursement for inpatient hospitalization and rehabilitation services shall be based on a per diem rate as negotiated between the Department and the facility.
 - (b) Reimbursement for covered medical services shall be based on:
 - 1. Average wholesale price for pharmacy plus a \$4.00 shipping and handling fee.
 - 2. For medical services, on an annual basis the required minimum reimbursement rate shall be updated to the equivalent of the prior year Medicare fee schedule for Tennessee multiplied by 75% and inflated with expected trend values as reported by Medicare. The updated National Conversion Factor is referenced in the Federal Register on or about October 31 each year.
 - 3. Reimbursement for therapies, medical supplies, durable medical equipment, prosthetics, orthotics, and orthodontic/dental intervention services shall be based on the American Medical Association Physicians' Current Procedural Terminology (CPT) codes relative value units and the Direct Purchase Authority for the CSS program.
 - 4. Reimbursement for nutritional supplements, hearing aids, and hearing aid supplies shall be based on the competitive bid system as designated in the State of Tennessee purchasing procedures and the Direct Purchasing Authority for the CSS Program.
 - 5. Non-hospital services for which there is no Medicare price shall be paid at 75% of the billed charges.
 - (c) No reimbursement will be paid for any covered service over 24 months old.
- (6) Authorization of providers and vendors for reimbursement shall be determined in accordance with the standards as designated in these rules and determined by the program.
- (7) Billing procedures for hospitals, institutions, facilities, agencies, providers, vendors, or distinct parts thereof rendering care or medical services shall be determined by the Department.
- (8) No CSS provider shall charge CSS clients more than is charged for private clients for equivalent accommodations and services.
- (9) The CSS program is not responsible for paying for services that could have or would have been paid by private insurance or TennCare due to failure to follow their requirements.

Authority: *T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.*

1200-11-3-. 06 STANDARDS OF CARE.

- (1) Participating physicians shall be licensed to practice medicine in Tennessee (or in the state where the service is delivered) and be certified and/or board eligible in their respective specialties. The Board of Dentistry must certify all dentists in their respective specialty. All other providers must be appropriately certified and/or licensed in their respective specialty.
- (2) Physicians and dentists participating in a TennCare Managed Care Organization (MCO) network shall be recognized by the program as providers and must complete an application to the CSS program for reimbursement purposes.

Physicians and dentists not participating in a TennCare MCO network must complete an application and be approved to serve as a CSS provider.

- (3) All physicians and dentists must sign an agreement whereby they agree to abide by these rules and regulations and CSS program policy.
- (4) Hospitals, facilities, physicians, dentists, and therapists, as well as other providers and vendors receiving payment from the CSS program for a patient, may not submit to the family of that patient, concurrent charges over and above the amount covered by TennCare, private insurance, or as provided in these rules and regulations.

Authority: T.C.A. §§68-1-103, 68-12-101 et seq.

1200-11-3-.07 OUT-OF-STATE TREATMENT.

- (1) Services may be provided in out-of-state facilities, with prior written approval from the CSS program director, when the following conditions are met.
 - (a) Evidence is provided by the referring physician that services requested are not available within Tennessee or explicit medical justification is given to prove such out-of-state treatment to be in the best interest of the child.
 - (b) Reimbursement for services shall be based on a negotiated rate paid by the CSS program in that state or that state's Medicaid rate, whichever is less.
 - (c) The out-of-state length of stay and estimated hospital charge shall be within the limits established by the program.
 - (d) The out-of-state estimated cost of out-patient follow-up and/or discharge services shall be equal or comparable to the Title V CSHCN rate in that state or that state's Medicaid rate, whichever is less.
 - (e) Tennessee's Children's Special Services Rules and Regulations 1200-11-3-.05 Authorization and Reimbursement for Services shall apply.
- (2) In order to maintain continuity of care, children receiving services under these rules and regulations who move out of state shall be referred to the appropriate Title V CSHCN program within the state of new residence upon written permission of the legal guardian.

Authority: T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.

1200-11-3-.08 APPEALS AND CLOSURE OF CASES.

- (1) Appeals
 - (a) Applicants who are denied participation in the Children's Special Services program, or participants who are discontinued from the program in accordance with these rules and regulations, may appeal the decision in writing to the program director within thirty (30) calendar days of receipt of the program's written notice of denial or closure. If the denial is upheld, the individual may appeal the decision in writing to the Commissioner within ten (10) calendar days of receipt of the written notice that the initial appeal has been denied. The decision of the Commissioner shall be final.

(2) Closure of Cases

- (a) Cases may be closed or participants may be denied services for the following reasons:
1. participant has received maximum treatment for the eligible diagnosis;
 2. participant has attained the age of twenty-one (21). Those with a diagnosis of Cystic fibrosis may remain on the program past the age of 21 years, pursuant to rule 1200-11-3-.03 (3).
 3. participant moved out of state;
 4. participant expired;
 5. participant not diagnostically eligible;
 6. participant not financially eligible; (Rule 1200-11-3-.08, continued)
 7. participant's family not interested; or
 8. participant can not be located by the Department.

Authority: T.C.A. §§4-5-202, 68-1-103, and 68-12-101 et seq.

REPEALS.

Rule 1200-11-3 is repealed.

The notice of rulemaking set out herein was properly file in the Department of State on the 31st day of January, 2002. (01-51)

DEPARTMENT OF HEALTH - 1200
BOARD FOR LICENSING HEALTH CARE FACILITIES
DIVISION OF HEALTH CARE FACILITIES

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendment of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-11-202 and 68-11-209. 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 on the ground floor of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 9:00 p.m. (CST) on the 18th day of March, 2002.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Care Facilities 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 Care Facilities, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-0508, (615) 741-7598.

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

Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-0508, (615) 741-7598.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1200-8-10-.01, Definitions, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Acceptable Plan of Correction. The Licensing Division shall approve an Ambulatory Surgical Treatment Center's plan to correct deficiencies identified during an on-site survey conducted by the Survey Division or its designated representative. The plan of correction shall be a written document and shall provide, but not limited to, the following information:
 - (a) How the deficiency will be corrected.
 - (b) Who will be responsible for correcting the deficiency.
 - (c) The date the deficiency will be corrected.
 - (d) How the facility will prevent the same deficiency from re-occurring.
- (2) Accredited Record Technician (ART). A person currently accredited as such by the American Medical Records Association.
- (3) Advance Directive. A written statement such as a living will, a durable power of attorney for health care to a do not resuscitate order to the provision of health care when the individual is incapacitated.
- (4) Ambulatory surgical treatment center. Any institution, place or building devoted primarily to the maintenance and

operation of a facility for the performance of surgical procedures or any facility in which a medical or surgical procedure is utilized to terminate a pregnancy. Such facilities shall not provide beds or other accommodations for the stay of a patient to exceed twelve (12) hours duration, provided, that the length of stay may be extended for an additional twelve (12) hours in the event such stay is deemed necessary by the attending physician, the facility medical director, or the anesthesiologist for observation or recovery, but in no event shall the length of stay exceed twenty-four (24) hours. No patient for whom a medical or surgical procedure is utilized to terminate a pregnancy shall stay at such a facility for a period exceeding twelve (12) hours. Individual patients shall be discharged in an ambulatory condition without danger to the continued well-being of the patients or shall be transferred to a hospital. Excluded from this definition are the private physicians' and dentists' office practices, except those private physicians' and dentists' offices in which a substantial number of medical or surgical pregnancy terminations are performed.

- (5) Board. The Tennessee Board for Licensing Health Care Facilities.
- (6) Cardiopulmonary Resuscitation (CPR). The administering of any means or device to support cardiopulmonary functions in a patient, whether by mechanical devices, chest compressions, mouth-to-mouth resuscitation, cardiac massage, tracheal intubation, manual or mechanical ventilators or respirators, defibrillation, the administration of drugs and/or chemical agents intended to restore cardiac and/or respiratory functions in a patient where cardiac or respiratory arrest has occurred or is believed to be imminent.
- (7) Certified Registered Nurse Anesthetist. A registered nurse currently licensed by the Tennessee Board of Nursing who is currently certified as such by the American Association of Nurse Anesthetists.
- (8) Clinical Laboratory Improvement Act (CLIA). The federal law requiring that clinical laboratories be approved by the U.S. Department of Health and Human Services, Health Care Financing Administration.
- (9) Collaborative Plan. The formal written plan between the mid-level practitioners and licensed physician.
- (10) Collaborative Practice. The implementation of the collaborative plan that outlines procedures for consultation and collaboration with other health care professional, e.g., licensed physicians, mid-level practitioners or nurse mid-wives.
- (11) Commissioner. Commissioner of the Tennessee Department of Health or his or her authorized representative.
- (12) Competent. A patient who has decision-making capacity.
- (13) Deep Sedation. An induced stated of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and/or to respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological method or a combination thereof.
- (14) Dentist. A person currently licensed as such by the Tennessee Board of Dentistry.
- (15) Dentist Office. For purposes of these regulations, if the following provision applies, the office shall be licensed as an Ambulatory Surgical Treatment Center (ASTC):
 - (a) Surgical suites are utilized by other Dental providers in addition to dental owners.
 - (b) Anesthesia consists of deep sedation or general anesthesia.
 - (c) Holds their office out to the public as providing services as an ASTC.

- (d) Procedures performed are considered complex by the standards of Centers for Medicare and Medicaid Services (CMS). Anesthesia consists of deep sedation or general anesthesia.
- (16) Department. The Tennessee Department of Health.
- (17) Do Not Resuscitate (DNR) order. An order entered by the patient's treating physician in the patient's medical records which states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. The order may contain limiting language to allow only certain types of cardiopulmonary resuscitation.
- (18) Electronic Signature. The authentication of a health record document or documentation in an electronic form achieved through electronic entry of an exclusively assigned, unique identification code entered by the author of the documentation.
- (19) General Anesthesia. An induced state of unconsciousness accompanied by partial or complete loss of protective reflexes inducing the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.
- (20) Graduate Registered Nurse Anesthetist. A registered nurse currently licensed in Tennessee who is a graduate of a nurse anesthesia educational program that is accredited by the American Association of Nurse Anesthetist's Council on Accreditation of Nurse Anesthesia Educational Programs and awaiting initial certification examination results, provided that initial certification is accomplished within eighteen (18) months of completion of an accredited nurse anesthesia educational program.
- (21) Hazardous Waste. Materials whose handling, use, storage and disposal are governed by local, state or federal regulations.
- (22) Hospital. Any institution, place, building or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with services of a physician or dentist, to one (1) or more non-related persons who may suffering from deformity, injury or disease or from any other condition for which nursing, medical or surgical services would be appreciate for care, diagnosis or treatment.
- (23) Incompetent. For the purpose of a Do Not Resuscitate (DNR), Rule 1200-8-10-.13, a patient having been determined not to have decision-making capacity by the proper legal authorities, or by the attending physician and the medical director, or by the attending physician and another physician.
- (24) Infectious Waste. Solid or liquid wastes contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host could result in an infectious disease.
- (25) Investigative Analysis. A process for identifying the most basic or causal factor or factors that underlie variation in performance leading to an unusual incident. The analysis must contain the following analytical processes: the proximate cause of the unusual incident, an analysis of systems and processes involved in the unusual incident, identification of possible common causes, identification of potential improvements, the plan or correction or action plan, and measures of effectiveness.
- (26) Legal Guardian or Conservator. The person legally appointed by a court of competent jurisdiction to have full or limited control of a client's person and/or property.
- (27) Licensed Practical Nurse. A person currently licensed as such by the Tennessee Board of Nursing.

- (28) Licensee. The person or entity to whom the license is issued. The licensee is held responsible for compliance with all applicable rules and regulations.
- (29) Life Threatening or Serious Injury or Harm. Injury or harm requiring the patient to undergo significant additional diagnostic or treatment measures.
- (30) Limited Investigative Analysis – A process for identifying the most basic causal factor or factors that underlie variation in performance leading to an unusual incident. The limited investigative analysis shall contain at a minimum the following analytical processes: the proximate cause of the unusual incident, identification of potential improvements, the plan of correction or action plan, and measures of effectiveness.
- (31) Medical emergency. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part.
- (32) Medical Record. Medical histories, records, reports, summaries, diagnoses, prognoses, records of treatment and medication ordered and given, entries, x-rays, radiology interpretations and other written electronics, or graphic data prepared, kept, made or maintained in a facility that pertains to confinement or services rendered to patients admitted or receiving care.
- (33) Medical Staff. An organized body composed of individuals appointed by the ambulatory surgical treatment center governing board. All members of the medical staff shall be licensed to practice in Tennessee, with the exception of interns and residents.
- (34) Medically Futile Treatment. Resuscitation efforts that cannot be expected either to restore cardiac or respiratory function to the patient or to achieve the expressed goals of the informed patients. In the case of the incompetent patient. The patient's representative expresses the goals of the patient.
- (35) Mid-Level Practitioner. Either a certified nurse practitioner or a physician assistant.
- (36) N.F.P.A. National Fire Protection Association.
- (37) Nurse Midwife. A person currently licensed by the Tennessee Board of Nursing as a registered nurse (R.N.) and qualified to deliver midwifery services or certified by the American College of Nurse-Midwives.
- (38) Patient. Includes but is not limited to any person who is suffering from an acute or chronic illness or injury or who is crippled, convalescent or infirm, or who is in need of obstetrical, surgical, medical, nursing or supervisory care.
- (39) Patient Abuse. The intentional or negligent abuse of a patient that causes pain, injury, or mental anguish. Patient abuse includes the deprivation of services by a caretaker which are necessary to maintain the health and welfare of a patient or resident; however, the withholding of authorization for or provision of medical care to any terminally ill person who has executed an irrevocable living will in accordance with the Tennessee Right to Natural Death Law, or other applicable law, if the provision of such medical care would conflict with the terms of such living will shall not be deemed "patient abuse" for purposes of these rules.
- (40) PALS. Pediatric Advance Life Support.
- (41) Physician. A person currently licensed as such by the Tennessee Board of Medical Examiners or currently licensed to practice osteopathy by the Tennessee Board of Osteopathic Examiners.
- (42) Physician Assistant. A person who is licensed by the Tennessee Board of Medical Examiners and Committee on Physician Assistants and has obtained prescription writing authority pursuant to T.C.A. 63-19-107(2)(A).

- (43) Physician Office. For purposes of these regulations, if one or more of the following provisions apply, the office shall be licensed as an Ambulatory Surgical Treatment Center (ASTC):
- (a) Surgical suites are utilized by other medical providers in addition to physician owners.
 - (b) Anesthesia consists of deep sedation or general anesthesia.
 - (c) Holds their office out to the public as providing services as an ASTC.
 - (d) Procedures performed are considered complex by the standards of Centers for Medicare and Medicaid Services (CMS).
- (17) Plan of Correction/Action Plan – The part of the investigative analysis that consists of :
- (a) the action implemented to prevent the reoccurrence of the unusual incident,
 - (b) the time frames for the action to be implemented,
 - (c) the mechanisms to be used to implement and monitor the action, and
 - (d) the person(s) designated to implement and monitor the action, and
 - (e) the strategies for the measurements of effectiveness to be established.
- (45) Podiatrist. A person currently licensed as such by the Tennessee Board of Registration in Podiatry.
- (46) Radiological Technologist. A person currently certified as such by the American Society of Radiological Technologists.
- (47) Registered Nurse (R.N.). A person currently licensed as such by the Tennessee Board of Nursing.
- (48) Registered Record Administrator (RRA). A person currently registered as such by the American Medical Record Association.
- (49) Shall or Must. Compliance is mandatory.
- (50) Surgical Procedure. A manual or operative method performed by a licensed medical practitioner to treat diseases, injuries, conditions and/or deformities. (As related to pregnancy termination, surgical procedure excludes, but is not limited to, PAP smear or vaginal examinations, ultrasounds, amniocentesis, intramuscular injections.)
- (51) Transfer. The movement of a patient at the direction of a physician or other qualified medical personnel when a physician is not readily available but does not include such movement of a patient who leaves the facility against medical advice.
- (52) Unusual Incident. The abuse of a patient or an unexpected occurrence or accident that results in death, life threatening or serious injury or harm to a patient.
- (53) Unusual Incident Report. A report designated by the department to be used for reporting an unusual incident.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-211-209, and 68-11-216.

Rule 1200-8-10-.02, Licensing Procedures, is amended by deleting subparagraph (2) (b) and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) and paragraph (4) shall read:

- (2) (b) Each applicant for a license shall pay an annual license fee in the amount of eight hundred dollars (\$800). The fee must be submitted with the application and is not refundable.
- (4) A proposed change of ownership must be reported to the department a minimum of thirty (30) days prior to the change. A new application and fee must be received by the department before the license may be issued.
 - (a) For purposes of licensing, the licensee of an ASTC has the ultimate responsibility for the operation of the facility, including the final authority to make or control operational decisions and legal responsibility for the business management. A change of ownership occurs whenever this ultimate legal authority for the responsibility of ASTC operations is transferred.
 - (b) Circumstances constituting a change of ownership may include, but are not limited to, the following:
 - 1. Partnership. In the case of a partnership, the removal, addition, or substitution of a partner constitutes a change of ownership. If the facility is owned by a limited partnership, the removal of the general partner or general partners constitutes a change of ownership.
 - 2. Corporation. The merger of a facility owner into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock (even when a controlling interest), or the merger of another corporation into the originally-licensed corporation does not constitute a change of ownership.
 - 3. Leasing. The lease of a facility's operations constitutes a change of ownership. Sale/lease -back agreements shall not be treated as changes of ownership if the lease involved the facility's entire real and personal property and if the identity of the lessee, who shall continue the operation, retains the exact same legal form as the former owner.
 - 4. Transfers. Transfer of a facility's legal title, or a transfer between levels of government constitutes a change of ownership. A transfer between departments of the same level of government does not constitute a change of ownership.
 - 5. Management agreements are generally not changes of ownership if the owner continues to retain ultimate authority for the operation of the facility. However, if the ultimate authority is surrendered and transferred from the owner to a new manager, then a change of ownership has occurred.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209 and 68-211-216.

Rule 1200-8-10-.04, Administration, is amended by adding the following language as new paragraphs (15) through (23), so that as amended, the new paragraphs (15) through (23) shall read:

- (15) When services such as dietary, laundry or therapy services are purchased from others, the governing authority shall be responsible to assure the supplier(s) meet the same local and state standards the facility would have to meet if it were providing those services itself using its own staff.
- (16) The governing authority shall provide for the appointment, reappointment or dismissal of members of the medical, dental, and other health professional and provide for the granting of clinical privileges.

- (17) The governing body shall ensure that there is a written facility agreement with one or more acute care general hospitals licensed by the state, which will admit any patient referral who requires continuing care.
- (18) Each ASTC shall specify the classification of services to be provided in the facility and list authorized surgical procedures.
- (19) Where the physician-owner-operator serves as the governing body, the articles of incorporation or other written organizational plan shall describe the manner in which the owner-operator executes the governing body responsibility.
- (20) Infection Control.
 - (a) The ASTC must provide a sanitary environment to avoid sources and transmission of infections and communicable diseases. There must be an active performance improvement program for the prevention, control, and investigation of infections and communicable diseases.
 - (b) The chief executive officer or administrator shall assure that an infection control committee including members of the medical staff, nursing staff and administrative staff develop guidelines and techniques for the prevention, surveillance, control and reporting of hospital infections. Duties of the committee shall include the establishment of:
 1. Written infection control policies;
 2. Techniques and systems for identifying, reporting, investigating and controlling infections in the hospital;
 3. Written procedures governing the use of aseptic techniques and procedures in all areas of the hospital;
 4. Written procedures concerning food handling, laundry practices, disposal of environmental and patient wastes, traffic control and visiting rules in high risk areas, sources of air pollution, and routine culturing of autoclaves and sterilizers;
 5. A log of incidents related to infectious and communicable diseases;
 6. A method of control used in relation to the sterilization of supplies and water, and a written policy addressing reprocessing of sterile supplies;
 7. Formal provisions to educate and orient all appropriate personnel in the practice of aseptic techniques such as handwashing and scrubbing practices, proper grooming, masking and dressing care techniques, disinfecting and sterilizing techniques, and the handling and storage of patient care equipment and supplies; and,
 8. Continuing education provided for all hospital personnel on the cause, effect, transmission, prevention, and elimination of infections, as evidenced by front line employees verbalizing understanding of basic techniques.
 - (c) The chief executive officer, the medical staff and the chief nursing officer must ensure that the hospitalwide performance improvement program and training programs address problems identified by the infection control committee and must be responsible for the implementation of successful corrective action plans in affected problem areas.
 - (d) The facility shall develop policies and procedures for testing a patient's blood for the presence of the hepatitis B virus and the HIV (AIDS) virus in the event that an employee of the facility, a student studying at the facility, or other health care provider rendering services at the facility is exposed to a

- patient's blood or other body fluid. The testing shall be performed at no charge to the patient, and the test results shall be confidential.
- (e) The facility and its employees shall adopt and utilize standard precautions (per CDC) for preventing transmission of infections, HIV, and communicable diseases.
 - (f) All ASTC's shall adopt appropriate policies regarding the testing of patients and staff for human immunodeficiency virus (HIV) and any other identified causative agent of acquired immune deficiency syndrome.
- (18) Performance Improvement. The ASTC shall have a planned, systematic, organization-wide approach to process design and redesign, performance measurement, assessment, assessment and improvement which is approved by the designated medical staff committee of the facility, the owner and/or the governing body. This plan shall address and/or include, but is not limited to:
- (a) Infection control, including post-operative surveillance;
 - (b) Complications arising after the patient was admitted;
 - (c) Documentation of periodic review of the data collected and follow-up actions;
 - (d) A system that assures that appropriate plans of action to correct identified quality deficiencies;
 - (e) A system which identifies appropriate plans of action to correct identified quality deficiencies;
 - (f) Documentation that the above policies are being followed and that appropriate action is taken whenever indicated.
- (18) The ASTC shall ensure a framework for addressing issues related to care at the end of life.
- (19) The ASTC shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.05, Admissions, Discharges, and Transfers, is amended by adding the following language as new paragraphs (9) through (12):

- (9) The facility must ensure continuity of care and provide an effective discharge planning process that applies to all patients. The facility's discharge planning process, including discharge policies and procedures, must be specified in writing and must:
 - (a) Be developed and/or supervised by a registered nurse, social worker or other appropriately qualified personnel;
 - (b) Begin upon admission;
 - (c) Be provided when identified as a need by the patient, a person acting on the patient's behalf, or by the physician;

- (d) Include the likelihood of a patient's capacity for self-care or the possibility of the patient returning to his or her pre-ambulatory treatment center environment;
- (10) A discharge plan is required on every patient, even if the discharge is to home.
- (11) The facility must arrange for the initial implementation of the patient's discharge plan and must reassess the patient's discharge plan if there are factors that may affect continuing care needs or the appropriateness of the discharge plan.
- (12) As needed, the patient and family members or interested persons must be taught and/or counseled to prepare them for post-operative care.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.06, Basic Services, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

- (1) Surgical Services.
 - (a) For facilities restricted in services they provide, including but not limited to, radiation therapy or use of local anesthetics only, may be excluded from all or part of laboratory services, food and dietetic services, surgical services, and anesthesia services.
 - (b) If the facility provides surgical services, the services must be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered.
 - (c) A hospital may choose to separately license a portion of the facility as an Ambulatory Surgical Treatment Center, the licensure fee for such is not required.
 - (d) The organization of the surgical services must be appropriate to the scope of the services offered.
 - (e) The operating rooms must be supervised by an experienced registered nurse or a doctor of medicine or osteopathy.
 - (f) Licensed practical nurses (LPNs) and surgical technologists (operating room technicians) may serve as "scrub nurses" under the supervision of a registered nurse.
 - (g) Qualified registered nurses may perform circulating duties in the operating room. In accordance with applicable State laws and approved medical staff policies and procedures, LPNs and surgical technologists may assist in circulatory duties under the supervision of a qualified registered nurse who is immediately available to respond to emergencies.
 - (h) Surgical privileges must be delineated for all practitioners performing surgery in accordance with the competencies of each practitioner. The surgical service must contain a roster of practitioners specifying the surgical privileges of each practitioner.
 - (i) Surgical services must be consistent with needs and resources. Policies covering surgical care must be designed to assure the achievement and maintenance of high standards of medical practice and patient care.

- (j) There must be a complete history and physical work-up in the chart of every patient prior to surgery, except in emergencies. If the history has been dictated, but not yet recorded in the patient's chart, there must be a statement to that effect and an admission note in the chart by the practitioner who admitted the patient.
- (k) Properly executed informed consent, advance directive, and organ donation forms must be in the patient's chart before surgery, except in emergencies.
- (l) Adequate equipment and supplies must be available to the operating room suites and to the post-operative care area;
 - 1. Call-in system (OR)
 - 2. Cardiac monitor
 - 3. Pulse Oximeter
 - 4. Resuscitator
 - 5. Defibrillator
 - 6. Aspirator
 - 7. Tracheotomy set
- (m) A crash cart must be available and include at a minimum the following medication and supplies:
 - 1. adrenalin (epinephrine 1: 10,000 dilution; 10 ml
 - 2. adrenlin (epinephrine) 1:1000 dilution; 1 ml
 - 3. atropine 0.1 mg/ml; 5ml
 - 4. benadryl (diphenhydramine)
 - 5. calcium chloride 10%; 1 Oml
 - 6. dextrose. 50%
 - 7. dilantin (phenytoin)
 - 8. dopamine
 - 9. heparin
 - 10. inderal (propranolol)
 - 11. isuprel
 - 12. lanoxin (digoxin)

13. lasix (furosemide)
 14. xylocaine (lidocaine)
 15. magnesium sulfate 50%
 16. narcan(naloxone)
 17. pronestyl (procainamide)
 18. sodium bicarbonate 50 mEq/Soml
 19. solu-medrol (methylprednisolone)
 20. verapamil hydrochloride
 21. mazicon
 22. Suction devices, endotracheal tubes, laryngoscopes, etc.,
 23. Positive pressure ventilation device (e.g., Ambu) plus oxygen supply.
 24. Double tourniquet for the Bier block procedure.
 25. Emergency intubation equipment.
 26. IV solution and IV equipment.
- (n) At least one registered professional nurse shall be in the recovery area during the patient's recovery period.
- (o) The operating room register must be complete and up-to-date.
- (p) An operative report describing techniques, findings, and tissues removed or altered must be written or dictated immediately following surgery and signed by the surgeon.
- (q) The ASTC shall provide one or more surgical suites which shall be constructed, equipped, and maintained to assure the safety of patients and personnel.
- (r) Surgical suites are required to meet the same standards as hospital operating rooms, including those using general anesthesia.
- (s) The ASTC shall have separate areas for waiting rooms, recovery rooms, treatment and/or examining rooms.
- (2) Anesthesiology Services. Anesthesia shall be administered by:
- (a) A qualified anesthesiologist:

- (b) A doctor of medicine or osteopathy (other than an anesthesiologist);
 - (c) A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;
 - (d) A certified registered nurse anesthetist (CRNA); or
 - (e) A graduate registered nurse anesthetist under the supervision of an anesthesiologist who is immediately available if needed.
 - (f) After the completion of anesthesia, patients shall be constantly attended by competent personnel until responsive and able to summon aid. Each center shall maintain a log of the inspections made prior to each day's use of the anesthesia equipment. A record of all service and maintenance performed on all anesthesia machines, vaporizers and ventilators shall also be on file.
 - (g) When general anesthesia and/or succinylcholine are administered, the facility shall maintain thirty-six (36) ampules of dantrolene for injection on site. If dantrolene is administered, appropriate monitoring must be provided post operatively.
 - (h) Written policies and procedures relative to the administration of anesthesia shall be developed and approved by the Medical Staff and governing body.
 - (i) Any patient receiving conscious sedation shall receive:
 - 1. continuous EKG monitoring
 - 2. continuous oxygen saturations
 - 3. serial BP monitoring at intervals no less than every 5 minutes
 - 4. supplemental oxygen therapy and immediately available:
 - 5. ambubag
 - 6. suction
 - 7. endotracheal tube
 - 8. crash cart
- (3) Medical Staff.
- (a) The ASTC shall have a medical staff organized under written by-laws that are approved by the governing body. The medical staff of the ASTC shall define a mechanism to:
 - 1. Assure that an optimal level of professional performance is maintained;
 - 2. Appoint independent practitioners through a defined credentialing process;
 - 3. Apply credentialing criteria uniformly;

4. Utilize the current license, relevant training and experience, current competence and the ability to perform requested privileges in the credentialing process; and
 5. Provide for participation in required committees of the facility to ensure that quality medical care is provided to the patients.
- (b) Each licensed independent practitioner shall provide care under the auspices of the facility in accordance with approved privileges.
 - (c) Clinical privileges shall be granted based on the practitioners' qualifications and the services provided by the facility, and shall be reviewed and/or revised at least every two (2) years.
- (4) Nursing Service. A licensed registered nurse (R.N.) shall be on duty at all times. Additional appropriately trained staff shall be provided as needed to ensure that the medical needs of the patient are fully met.
- (a) The ASTC shall be organized under written policies and procedure relating to patient care, establishment of standards for nursing care and mechanisms for evaluating such care and nursing services.
 - (b) A qualified registered professional nurse designated by the administrator shall be responsible for coordinating and supervising all nursing services.
 - (c) There shall be a sufficient staffing pattern of registered professional nurses to provide quality nursing care to each surgical patient from admission through discharge. Additional staff shall be on duty and available to assist the professional staff to adequately handle routine and emergency patient needs.
 - (d) The ASTC shall establish written procedures for emergency services which will ensure the professional staff member who has been trained in emergency resuscitation procedures shall be on duty at all times when there is a patient the time of discharge.
 - (e) Nursing care policies and procedures shall be consistent with professionally recognized standards of nursing practice and shall be in accordance with Nurse Practice Act of the State of Tennessee and Association of Operating Room Nurses Standards of Practice.
 - (f) Staff development and training shall be provided to the nursing staff and other ancillary staff in order to maintain and improve knowledge and skills. The educational/training program shall be planned, documented and conducted on a continuing basis. There shall be at least appropriate training on equipment, safety concerns, infection control and emergency care on an annual basis.
- (5) Pharmaceutical Services. The ASTC must provide drugs and biologicals in a safe and effective manner in accordance with accepted standards of practice. Such drugs and biologicals must be stored in a separate room or cabinet which shall be kept locked at all times.
- (6) Ancillary Services. All ancillary or supportive health or medical services, including but not limited to, radiological, pharmaceutical, or medical laboratory services shall be provided in accordance with all applicable state and federal laws and regulations.
- (7) Radiological Services. The ASTC shall provide within the institution, or through arrangement, diagnostic radiological services commensurate with the needs of the ambulatory surgical center.
- (a) If radiological services are provided by facility staff, the service shall be maintained free of hazards for patients and personnel.

- (b) New installations of radiological equipment, and subsequent inspections for the identification of radiation hazards shall be made as specified in state and federal requirements.
 - (c) Personnel monitoring shall be maintained for each individual working in the area of radiation. Readings shall be on at least a monthly basis and reports kept on file and available for review.
 - 1. Personnel – The ASTC shall have a radiologist either full-time or part-time on a consulting basis, both to supervise the service and to discharge professional radiological services.
 - 2. The use of all radiological apparatus shall be limited to personnel designated as qualified by the radiologist; and use of fluoroscopes shall be limited to physicians.
 - (d) If provided under arrangement with an outside provider, the radiological services must be directed by a qualified radiologist and meet state and federal requirements.
- (8) Laboratory Services.
- (a) The ASTC shall provide on the premises or by written agreement with a laboratory licensed under T.C.A. 68-29-105, a clinical laboratory to provide those services commensurate with the needs and services of the ASTC.
 - (b) Any patient terminating pregnancy in an ASTC shall have an Rh type, documented prior to the procedure, performed on her blood. In addition, she shall be given the opportunity to receive Rh immune globulin after an appropriate crossmatch procedure is performed within a licensed laboratory.
- (9) Food and Dietetic Services. If a patient will be in the facility for more than four (4) hours post-op, an appropriate diet shall be provided.
- (10) Environmental Services.
- (a) The facility shall provide a safe, accessible, effective and efficient environment of care consistent with its mission, service, law and regulation.
 - (b) The facility shall develop policies and procedures that address:
 - 1. Safety;
 - 2. Security;
 - 3. Control of hazardous materials and waste;
 - 4. Emergency preparedness;
 - 5. Life safety;
 - 6. Medical equipment; and,
 - 7. Utility systems.

- (c) Staff shall have been oriented to and educated about the environment of care and possess knowledge and skills to perform responsibilities under the environment of care policies and procedures.
 - (b) Utility systems, medical equipment, life safety elements, and safety elements of the environment of care shall be maintained, tested and inspected.
 - (c) Safety issues shall be addressed and resolved.
 - (d) Appropriate staff participate in implementing safety recommendations and monitoring their effectiveness.
 - (e) The building and grounds shall be suitable to services provided and patients served.
- (11) Medical Records.
- (a) The ASTC shall comply with the Medical Records Act of 1974, T.C.A. § 68-11-301, et seq.
 - (b) A medical record shall be maintained for each person receiving medical care provided by the ASTC and shall include:
 - 1. Patient identification;
 - 2. Name of nearest relative or other responsible agent;
 - 3. Identification of primary source of medical care;
 - 4. Dates and times of visits;
 - 5. Signed informed consent;
 - 6. Pertinent medical history;
 - 7. Diagnosis;
 - 8. Physician examination report;
 - 9. Anesthesia records of pertinent preoperative and postoperative reports including preanesthesia evaluation, type of anesthesia, technique and dosage used;
 - 10. Operative report;
 - 11. Discharge summary, including instructions for self care and instructions for obtaining postoperative emergency care;
 - 12. Reports of all laboratory and diagnostic procedures along with tests performed and the results authenticated by the appropriate personnel; and,
 - 13. X-ray reports.
 - (c) Medical records shall be current and confidential. Medical records and copies thereof shall be made available when requested by an authorized representative of the board or the department.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209 and 68-11-216.

Rule 1200-8-10-.07, Specialty Services, is amended by deleting the rule in its entirety and substituting instead the following language, so that as amended, the new rule shall read:

1200-8-10-.07 RESERVED.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202 and 68-11-209.

Rule 1200-8-10-.08, Building Standards, is amended by deleting paragraphs (4), (5), and (9) through (16) in their entirety and substituting instead the following language, and is further amended by re-numbering paragraphs (17) through (23) to paragraphs (16) through (22), and is further amended by deleting paragraph (24) in its entirety and adding the following language as new paragraphs (23) and (24), so that as amended, the new paragraphs (4), (5), (9) through (15), (23) and (24) shall read:

- (4) All new construction and renovations to existing ASTC's, other than minor alterations not affecting fire and life safety or functional issues, shall be performed in accordance with the specific requirements of these regulations governing new construction in facilities, including the submission of final work drawings and the specifications to each. Changes to the approved plans and specifications shall be submitted for review and approved prior to construction.
- (5) No new ASTC shall hereafter be constructed, nor shall major alterations be made to existing facilities, or change in facility type be made without the prior written approval, and unless in accordance with plans and specifications approved in advance by the department. Before any new ASTC is licensed or before any alteration or expansion of a licensed ASTC can be approved, the applicant must furnish two (2) complete set, of plans and specifications to the department, together with fees and other information as required. Plans and specifications for new construction and major renovations, other than minor alterations not affecting fire and life safety or functional issues shall be prepared in accordance with Rules and Regulations of Tennessee Board of Architects & Engineers.
- (9) Detailed plans shall be drawn to a scale of at least one-eighth inch equals one foot (1/8"=1'), accurately dimensioned and identifying the general arrangement of the building, the intended purpose and the fixed equipment in each room, with such additional information as the department may require.
 - (a) Review of plans does not eliminate responsibility of owner and/or architect to comply with all rules and regulations.
- (9) Specifications shall supplement all drawings. They shall describe the characteristics of all materials, products and devices, unless fully described and indicated on the drawings. Specification copies should be bound in an 8½ x 11 inch folder.
- (10) Review of plans and specifications shall be acknowledged in writing by the department, with copies sent to the architect and the owner, manager or other executive of the institution. The distribution of such review may be modified at the discretion of the department.
- (11) All construction shall be executed in accordance with the approved plans and specifications.
- (12) Drawings, and specifications shall be prepared for each of the following branches of work: Architectural, Structural, Mechanical and Electrical.

- (13) Architectural drawings shall include:
- (a) Plot plan(s) showing property lines, finish grade, location of existing and proposed structures, roadways, walks, utilities and parking areas;
 - (b) Floor plan(s) showing scale drawings of typical and special rooms, indicating all fixed and movable equipment and major items of furniture;
 - (c) Separate life safety plans showing the compartment(s), all means of egress and exit markings, exits and travel distances, dimensions of compartments and calculation and tabulation of exit units. All fire and smoke walls must be identified;
 - (d) The elevation of each façade;
 - (e) The typical sections throughout the building;
 - (f) The schedule of finishes;
 - (g) The schedule of doors and windows;
 - (h) Roof plans;
 - (i) Details and dimensions of elevator shaft(s), car platform(s), doors, pit(s), equipment in the machine room, and the rates of car travel; and,
 - (j) Code analysis.
- (15) Structural drawings shall include:
- (a) Plans of foundations, floors, roofs and intermediate levels which show a complete design with sizes, sections and the relative location of the various members; and
 - (b) Schedule of beams, girders and columns.
 - (c) Design live load values for wind, roof, floor, stairs, guard, hand rails, and seismic;
- (23) Approved plans and specifications shall be kept at the job site.
- (24) Prior to final inspection, a CD Rom disc, in TIF or DMG format, of the final approved plans including all shop drawings, sprinkler, hood and duct, calculations, addenda, specifications, etc., shall be submitted to the department.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.09, Life Safety, is amended by deleting the first sentence in paragraph (3) and substituting instead the following language, so that as amended, the new first sentence of paragraph (3) shall read:

- (3) All fires shall be reported to the department within five (5) business days.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209 and 68-11-216.

Rule 1200-8-10-.10, Infectious and Hazardous Waste, is amended by adding the following language as new paragraph (12):

- (8) The physical environment of the facility shall be maintained in a safe, clean and sanitary manner.
 - (a) Any condition on the facility site conducive to the harboring or breeding of insects, rodents or other vermin shall be prohibited. Chemical substances of a poisonous nature used to control or eliminate vermin shall be properly identified. Such substances shall not be stored with or near food or medications.
 - (b) Cats, dogs or other animals shall not be allowed in any part of the facility except for specially trained animals for the handicapped. The facility shall designate in its policies and procedures those areas where animals will be excluded. The areas designated shall be determined based upon an assessment of the facility performed by medically trained personnel.
 - (c) A bed complete with mattress and pillow shall be provided. In addition, patient units shall be provided with at least one chair, a bedside table, an over bed tray and adequate storage space for toilet articles, clothing and personal belongings.
 - (d) Individual wash cloths, towels and bed linens must be provided for each patient. Linen shall not be interchanged from patient to patient until it has been properly laundered.
 - (e) Bath basin water service, emesis basin, bedpan and urinal shall be individually provided.
 - (f) Water pitchers, glasses, thermometers, emesis basins, douche apparatus, enema apparatus, urinals, mouthwash cups, bedpans and similar items of equipment coming into intimate contact with patients shall be disinfected or sterilized after each use unless individual equipment for each is provided and then sterilized or disinfected between patients and as often as necessary to maintain them in a clean and sanitary condition. Single use patient disposable items are acceptable but shall not be reused.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209, and 68-11-216.

Rule 1200-8-10-.14, Disaster Preparedness, is amended by adding the following language as new subparagraph (3) (d):

- (3) (d) Emergency generators would not be required if the facility does not utilize anesthesia that renders the patient incapable of self preservation but should have an emergency power source able to produce adequate power to run required equipment for a minimum of two (2) hours.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-204, 68-11-206, 68-11-209 and 68-11-216.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of January, 2002. (01-43)

**DEPARTMENT OF HEALTH - 1200
TENNESSEE MEDICAL LABORATORY BOARD
DIVISION OF HEALTH RELATED BOARDS**

There will be a hearing before the Tennessee Medical Laboratory Board to consider the promulgation of a new rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 68-29-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 2nd day of April, 2002.

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

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

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

SUBSTANCE OF PROPOSED RULE

NEW RULE

TABLE OF CONTENTS

1200-6-.3-.17 Exempt Procedures

1200-6-.3-.17 EXEMPT PROCEDURES.

- (1) Definition: "Exempt Procedures" means those laboratory procedures, as defined by the Board, which may be performed by individuals not licensed under the Medical Laboratory Act.
- (2) Procedures which are designated as exempt shall be limited to:
 - (a) centrifuging, pouring off and preparing specimens for testing.
 - (b) preparing peripheral smears at bedside or in the laboratory.
 - (c) staining peripheral smears by automated methods.
 - (d) loading primary bar-coded specimens on analyzers.
 - (e) automated process of sorting, decapping, aliquoting and archiving of specimens.
 - (f) primary inoculation of microbiology specimens.

- (3) A medical laboratory director, as defined by T.C.A. § 68-29-103, must approve procedures performed by individuals not licensed under the Tennessee Medical Laboratory Act.
- (4) The laboratory must identify personnel responsible for performing exempt procedures.
- (5) Personnel performing exempt procedures must have adequate, specific training and orientation to perform the procedures and must demonstrate satisfactory levels of competency before performing exempt procedures, and at a minimum annually thereafter.
- (6) Laboratory surveyors will evaluate exempt procedures at the time of inspection.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-29-104, and 68-29-105.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of January, 2002. (01-34)

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

**CHAPTER 0940-5
LICENSURE**

There will be a hearing before the Tennessee Department of Mental Health and Developmental Disabilities to consider promulgation of an amendment to rules to be made pursuant to Tenn. Code Ann. § 4-4-103 and §§ 33-2-404 and 406(h). 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 the Cumberland Room of the Cordell Hull Building at 9:30 a.m. on February 21, 2002.

Written comments will be considered if received by close of business, February 15, 2001, at the DMHDD Office of Legal Counsel, Twenty-Sixth Floor, W. R. 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, Joe Swinford, 5th Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37243. Mr. Swinford's telephone number is (615) 532-6700; 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 entire text of this notice of rulemaking hearing, contact: Anita M. Daniels, Office of Legal Counsel, Tennessee Department of Mental Health and Developmental Disabilities, Twenty-sixth Floor, W. R. Snodgrass Building, 312 Eighth Avenue North, Nashville, Tennessee 37243; telephone (615) 532-6516.

SUBSTANCE OF PROPOSED AMENDMENT

Rule 0940-5-2-.04 Application Fees is amended by deleting it in its entirety and substituting instead the following:

0940-5-2-.04 APPLICATION FEES

The applicant must submit a fee or fees for the processing of the application by the Department’s Office of Licensure in making a determination to grant or to deny licensure. Each initial and renewal application for licensure must be submitted with the appropriate fee or fees. All fees submitted are non refundable. The fee rate is based on the number of distinct categories of services and or facilities (as defined under Chapter 0940-5-1 Definitions, amended under Chapter 947, Public Acts of 2000, codified at Tenn. Code Ann. § 33-2-402, effective March 1, 2001) to be operated at each non-residential site, and on the number of client beds to b be licensed at each residential site. A fee must be submitted for each facility at each site for which licensure is being sought under the following schedule:

- (1) Non-Residential Services1 and/or Facility Fees:

One (1) Distinct Category of Services or Facility	\$ 810.00
Two (2) Distinct Categories of Services and/or Facilities	1,010.00
Three (3) Distinct Categories of Services and/or Facilities	1,220.00
Four (4) Distinct Categories of Services and/or Facilities	1,420.00
More than four (4) Distinct Categories of Services and/or Facilities	1,620.00

- (2) Residential Facility Fees:

Four to Ten (4-10) Beds	\$ 200.00
Eleven to Fifteen (11-15) Beds	280.00
Sixteen to Fifty (16-50) Beds	410.00
More than Fifty (50) Beds	810.00
	1,220.00

- (3) Mental Health Hospitals and Developmental Disabilities

Institutional Facilities	\$ 175.00 per bed
--------------------------	-------------------

Authority: T.C.A. §§4-4-10, and 33-2-404 & 406(h).

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of January, 2002. (01-42)

BOARD OF OPTOMETRY - 1050

There will be a hearing before the Tennessee Board of Optometry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-8-112. 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 Johnson Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 21st day of March, 2002.

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, 1st Floor, Cordell Hull Building, 425 5th Ave. North, Nashville, TN 37247-1010, 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 1045-2-.02, Licensure Process is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (3) An applicant shall cause to be submitted to the Board administrative office a certified transcript from a school or college of optometry accredited by a regional or professional accreditation organization. Accrediting agencies recognized by the Tennessee Board of Optometry include the American Optometric Association's Council on Optometric Education and World Education Services.
 - (a) For applicants graduating from a school or college of optometry located inside the United States, the transcript must display the degree conferred, the date of conferral, and the official seal of the institution. Transcripts must be mailed directly to the Board administrative office by the accredited institution.
 - (b) For applicants graduating from an international school or college of optometry, the transcript must display the degree conferred, the date of conferral, the official seal of the institution, and a certified translation if the transcript is not in English. Transcripts must be mailed directly to the Board administrative office by the accredited institution.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-8-112, and 63-8-115.

Rule 1045-2-.03, Examination, is amended by adding the following language as new paragraph (3) and renumbering the remaining paragraphs accordingly.

- (3) Applicants graduating from an international school or college of optometry must submit verification of successful completion of the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-8-112, and 63-8-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 11th day of January, 2002. (01-28)

**DEPARTMENT OF TRANSPORTATION - 1680
PUBLIC TRANSPORTATION, WATERWAYS AND RAIL DIVISION**

The Tennessee Department of Transportation will hold a public hearing to receive comments concerning the promulgation of rules for Railroad Grade Crossing Standards under Chapter 315 of the Public Acts of 2001, Tenn. Code Ann. § 65-11-101(c). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-201, et seq., and will take place in Main Conference Room on the 7th Floor of the James K. Polk Building located at 505 Deaderick Street, Nashville, Tennessee 37243 at 1:00 p.m. CST on Thursday, March 21, 2002.

Written comments will be considered if received by the close of business (4:30 p.m.) on March 21, 2002, in the Office of General Counsel, Tennessee Department of Transportation, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Department of Transportation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone or other appropriate means, and should be made no less than ten (10) days prior to the public hearing (March 21, 2002) or the date the party intends to review such filings to allow time to provide such aid or service. Such contact may be made with the Department of Transportation's ADA Coordinator at Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, or by telephone at (615) 741-4984.

For a copy of this notice of rulemaking hearing, contact: John H. Reinbold, Tennessee Department of Transportation, Office of General Counsel, Suite 700, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243-0332, telephone number (615) 741-2941.

SUBSTANCE OF PROPOSED RULES

**DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSPORTATION, WATERWAYS AND RAIL DIVISION**

**CHAPTER 1680-12-1
RAILROAD GRADE CROSSING STANDARDS**

NEW RULE

TABLE OF CONTENTS

1680-12-1-.01	Purpose	1680-12-1-.05	Procedures for Approvals and Inspections
1680-12-1-.02	Applicability	1680-12-1-.06	Costs of Construction or Conversion
1680-12-1-.03	Definitions	1680-12-1-.07	Fees
1680-12-1-.04	Standards		

1680-12-1-.01 PURPOSE.

The purpose of these Rules is to implement Chapter 315 of the Tennessee Public Acts of 2001, Tenn. Code Ann. § 65-11-101(c), by establishing standards for the construction of railroad grade crossings on public roads, and for the conversion of private crossings to public crossings, within the State of Tennessee. These Rules also establish procedures for the approval of plans for the construction or conversion of grade crossings and for the inspection of these crossings by the Department before they are opened to vehicular traffic.

Authority: T.C.A. §65-11-101.

1680-12-1-.02 APPLICABILITY.

- (1) Construction or Conversion of Crossings After July 1, 2001.

After July 1, 2001, there shall be no construction of any public crossing, and no conversion of a private crossing to a public crossing, anywhere within the State of Tennessee without the prior review and approval of the Department as provided in these Rules. In addition, no such crossing shall be opened to vehicular traffic until it has been inspected by the Department to assure that it has been constructed or converted in accordance with the plans previously approved by the Department. In those cases where the construction or conversion of a crossing occurs at or on an existing public or private roadway, the crossing shall not be opened to vehicular traffic prior to the Department's final inspection of the construction or conversion, except in accordance with a temporary traffic control plan approved by the Department under these Rules.

- (2) Scope of Review and Approval.

The Department's authority under these Rules is limited to the review and approval of plans for the construction of public crossings, or the conversion of private crossings, and the inspection of such crossings before they are opened to traffic. Apart from its responsibility under these Rules to approve the plans and to inspect the completed construction or conversion, the Department does not have any other authority to permit or require the construction or conversion of grade crossings on roads not designated as being on the state highway system. The decision to construct a public crossing, or to convert a private crossing to a public crossing, on any road not included in the state highway system shall remain with the governmental entity, person and/or railroad having jurisdiction over the road or crossing.

- (3) No Retroactive Effect.

These Rules shall not apply to any grade crossing constructed prior to July 1, 2001, except insofar as the standards established in these Rules may provide the pertinent governmental authority, person or railroad with guidance in evaluating such grade crossings for possible closure.

Authority: *T.C.A. §65-11-101.*

1680-12-1-.03 DEFINITIONS.

- (1) "AASHTO" means the American Association of State Highway and Transportation Officials.
- (2) "AASHTO Design Manual" means the most current edition and revisions of the AASHTO publication "A Policy on Geometric Design of Highways and Streets.;"
- (3) "Active warning device" means a traffic control device at a grade crossing activated by the approach or presence of a train, such as flashing light signals, bells, automatic gates, or similar devices, that warn motorists and pedestrians of the approach or presence of a train at the crossing.
- (4) "ADT" means average daily traffic.
- (5) "Commissioner" means the Commissioner of the State of Tennessee Department of Transportation.
- (6) "Construction" when used in reference to the construction of a public crossing means any of the following:
 - (a) The actual physical construction of a new public crossing in a location where no grade crossing currently exists; or

- (b) The addition of a lane or lanes to public road at an existing grade crossing;
 - (c) The addition of railroad track or tracks at an existing public crossing.;
- (7) “Conversion” when used in reference to a private crossing means a change in the use or legal status of the roadway at a grade crossing from a private road to a public road.
 - (8) “Department” means the State of Tennessee Department of Transportation.
 - (9) “Exposure” when used in reference to the standards for installing active warning devices at a grade crossing means the product of the average daily traffic on the roadway and the number of train crossings per day on the railroad track.
 - (10) “FHWA” means the Federal Highway Administration, an agency of the United States Department of Transportation.
 - (11) “FRA” means the Federal Railroad Administration, an agency of the United States Department of Transportation.
 - (12) “FRA Highway-Rail Crossing Inventory Manual” means the most current edition and revisions of the FRA publication “Highway-Rail Crossing Inventory Instructions and Procedures Manual.”
 - (13) “Grade crossing” means the at-grade intersection of one or more railroad tracks with a public or private road.
 - (14) “Grade separation” means a bridge, trestle, tunnel, culvert or other structure enabling one or more railroad tracks to cross over or under a public road or private road.
 - (15) “Interconnection” means the communication connection between an active warning device and the roadway traffic controller assembly for the purpose of preemption.
 - (16) “MUTCD” means the most current edition and revisions of the “Manual on Uniform Traffic Control Devices,” which is published by the Federal Highway Administration.
 - (17) “Passive warning device” means a traffic control device, such as a highway sign or marking, located at or in advance of a grade crossing to indicate the presence of a grade crossing but which does not activate or change upon the approach or presence of a train.
 - (18) “Preemption” means the transfer of the normal operation of roadway traffic signals to a special control mode as a result of a signal received from a railroad active warning device system.
 - (19) “Private crossing” means the at-grade intersection of one or more railroad tracks with a private road, where the roadway is a private road on both sides of the grade crossing.
 - (20) “Private road” means a roadway owned by a private person or entity, or by a governmental entity in its proprietary capacity, that is not freely open to use by the public without permission but is available for use only by the owner or the owner’s invitees (as may be evidenced by the presence of gates or no trespassing signs, maintenance by a private person or entity, or other relevant evidence indicative of private ownership and/or restricted use of the roadway) or any roadway determined to be a private road by a court of competent jurisdiction. The entrance of a private driveway onto a public road shall be considered a private road even though the entrance may be located on the public road right-of-way and may be maintained by a governmental entity, unless the private driveway is freely open to use by the public without permission.

- (21) "Public crossing" means the at-grade intersection of one or more railroad tracks with a public road, including any intersection where the roadway on either side of the grade crossing is a public road.
- (22) "Public road" means a roadway owned and/or maintained by a governmental entity or a private entity that is freely open to use by the public without permission, or any roadway determined to be a public road by a court of competent jurisdiction.
- (23) "Rail Safety Office" means the Rail Safety Office in the Public Transportation, Waterways and Rail Division of the State of Tennessee Department of Transportation, or any successor thereof as determined by the Department.
- (24) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the shoulder.
- (25) "TDOT Standard Roadway Drawings" means the most current edition and revisions of the Department's "English Standard Roadway Drawings," or the most current edition and revisions of the Department's "Metric Standard Roadway Drawings," if applicable.
- (26) "TDOT Standard Specifications for Road and Bridge Construction" means the Department's publication "Standard Specifications for Road and Bridge Construction," 1995 edition, together with the "Supplemental Specifications" as revised and published by the Department.
- (27) "USDOT" means the United States Department of Transportation.
- (28) "USDOT-AAR crossing inventory" means the national inventory of all grade crossings, public and private, which is maintained by the Federal Railroad Administration.

Authority: *T.C.A. §65-11-101.*

1680-12-1-.04 STANDARDS.

- (1) Railroad Track and Crossing Pad Standards.
 - (a) The crossing pad shall be constructed of any paved or panelized crossing surface material compatible with the current practices of the involved railroad, or of such material as the Department may require.
 - (b) Specifications and plans concerning the crossing surface material and use shall comply with the manufacturer's recommendations and the involved railroad's current standards and specifications.
 - (c) The width of the crossing pad at the grade crossing shall correspond to the width of the approach roadway cross section, including but not limited to the traffic lanes and any shoulders, pedestrian walkways and bicycle paths; provided, however, that the crossing pad shall have a minimum width of 32 feet.
 - (d) The crossing pad shall have the same number and width of traffic lanes and shoulders as the approach roadway.
 - (e) Roadway markings shall be provided on the crossing pad in accordance with the MUTCD.
 - (f) Flangeways of not less than 2½ inches nor more than 3 inches in width shall be provided between the rail and the crossing pad, except where track geometry or other track appliances may require otherwise. Flangeways shall be at least 2 inches in depth, except as the involved railroad may otherwise approve.

(g) Materials and specifications shall comply, at a minimum, with the following:

1. Materials.

All track materials used - including but not limited to ties, crossing pads, fasteners, geotextile fabric, drainage tile and other track material - shall be new, except that rail may be No. 1 relay or new.

2. Drainage.

Adequate engineered drainage shall be provided. The drainage design for cross-drainage and trackside shall be based on a 50-year design frequency, checked for 100-year, or on the current design frequency standards of the involved railroad.

3. Ballast.

The ballast and sub-ballast shall be dug out and replaced to a minimum of 10 inches below the bottoms of the ties, a minimum of 2 feet beyond the ends of the ties, and a minimum of 20 feet beyond the end of the crossing pad.

4. Ties.

(i) Where a crossing system requires the use of track ties, the ties shall be made of preservative-treated No. 5 air-dried hardwood of not less than 9 inches wide and not less than 7 inches deep, or the ties shall be made of concrete, steel, plastic or other materials of suitable strength and dimensions, consistent with the standards of the involved railroad. The ties shall be installed through the limits of the crossing and beyond the crossing pad a minimum of 20 feet. The length and spacing of the ties shall conform to the type of grade crossing surface materials being used.

(ii) Where the crossing system design does not require track ties, the crossing system shall be adequate to maintain track gage, surface and alignment as defined by applicable FRA regulations.

5. Rail.

(i) Rail size of 112 pounds per yard, or the current size of rail used on the line, whichever is larger, shall be used through the limits of the crossing and beyond the crossing pad a minimum of 20 feet.

(ii) The rails throughout the crossing shall be installed to eliminate joints within the crossing. The nearest joint shall be not less than 20 feet from the end of the crossing pad. Where necessary, long rails shall be used or the rail ends shall be welded to form continuous rail through the crossing; provided, however, that no welded rail of greater than 400 feet in length shall be used without the approval of the involved railroad.

(iii) Any compromise joints (joints involving two different rail sizes) created by this crossing installation shall be welded or use compromise rail joint bars of the proper size.

(iv) Torch cutting of rail ends or boltholes is prohibited.

6. Rail fasteners, plates and anchors.

Each tie system shall use the appropriate fastener and anchor systems to maintain gage and limit longitudinal rail movement. Where ties with spikes are used, they shall be fully tie-plated with a minimum of four spikes per tie plate, and they shall be fully box anchored, as allowed by the crossing surface material, through the crossing area and at least 20 feet beyond each end of the crossing pad.

Where other systems are used, each tie must be fully attached to both rails in accordance with the system being used.

(h) Railroad alignment design.

Where grade crossings have two or more tracks, the tops of the rails for all tracks shall be brought to the same plane, where practical. All surface geometry design shall be in full compliance with applicable FRA regulations and railroad standards.

(i) Lining and surfacing track.

Rails shall be spiked or fastened to line and the track machined or mechanically tamped and surfaced to the grade and alignment of the existing track and roadway. In order to achieve the optimum ballast compaction through the crossing area, lining and surfacing shall involve two passes at a minimum, allowing as many train movements as time will permit, across the grade crossing before final surface and alignment.

(2) Roadway Standards.

(a) Roadway alignment design.

1. Vertical alignment.

- (i) The surface of the roadway shall be in the same plane as the tops of the rails for a distance of at least 2 feet beyond the rails for either single or multiple-track crossings.
- (ii) The top of the rail plane shall be connected with the grade line of the roadway each way by vertical curves of such length as is required to provide riding conditions and sight distances normally applied to the roadway involved.
- (iii) Unless track superelevation dictates otherwise, the vertical alignment of the roadway shall comply with the current recommended practices stated in the AASHTO Design Manual.

2. Roadway surface cross slope.

- (i) Roadway surface cross slope should be eliminated within 10 feet of the rail at the grade crossing to ensure a proper meet between the roadway and crossing pad surfaces.
- (ii) Pavement transition lengths should be in accordance with TDOT Standard Roadway Drawings and the AASHTO Design Manual.
- (iii) The engineer shall ensure that elimination of the roadway surface cross slope does not cause ponding.
- (iv) Any proposed exceptions based on roadway curvature, superelevation, or other design considerations must be approved by the Department.

3. Horizontal alignment.

The roadway shall be designed to provide no less than a 75-degree approach at the grade crossing, and, if practical, the roadway should be designed to intersect with the railroad track or tracks at a right angle

or as near to a right angle as possible. Any proposed exception must be based on an engineering study and approved by the Department. Railroad curves should be avoided when practical.

(b) Roadway surface.

1. Materials and placement.

The roadway shall be paved, at a minimum, within 150 feet of the nearest rail at the grade crossing. The depth and type of the pavement material used, and the placement of the base and pavement, shall comply with all requirements for base and pavement stated in the TDOT Standard Specifications for Road and Bridge Construction.

2. Roadway and lane width.

The width of the roadway at the grade crossing shall correspond to the width of the approach roadway, including traffic lanes and shoulders. The roadway at the grade crossing shall have the same number and width of traffic lanes and shoulders as the approach roadway. In the event that the approach roadway is less than 32 feet wide, a minimum paved approach of 32 feet shall be provided within 25 feet of the nearest rail at the grade crossing, with lane widths remaining the same as on the approach roadway.

3. Roadway markings.

At all paved approaches to the grade crossing, the roadway shall be marked in accordance with the MUTCD.

(c) Drainage.

1. Adequate engineered drainage shall be provided.

2. The following design frequencies based on roadway classification shall be used for drainage design:

(i) Culvert design frequency:

Multi-lane divided roadway:	50-yr.; check 100-yr.
Arterial and collector:	50-yr.; check 100-yr.
Local road:	10-yr.

(ii) Ditch design frequency:

Multi-lane divided roadway:	50-yr.
Arterial and collector:	10-yr.; 50 yr. in sags
Local roads:	10-yr.

(iii) Roadway freeboard:

All roadways:	50-yr.
---------------	--------

(iv) Inlet and sewer design frequency:

Multi-lane divided roadway:	50-yr.
Arterial and collector:	10-yr.; 50-yr. in sags
Local roads:	10-yr.

3. The design frequency selected for cross drainage structures:
 - (i) Shall not significantly increase the flood hazard for adjacent property; and
 - (ii) Shall permit maintenance of vehicular traffic on roads and streets under design flood conditions.
 4. The design frequency for roadway storm drainage structure design:
 - (i) Shall not significantly increase the flood hazard for adjacent property; and
 - (ii) Shall limit the encroachment onto the traveled lanes that could cause a hazard to vehicular traffic.
 5. In situations where the grade of the approach roadway descends toward the grade crossing, provisions shall be made to intercept surface and subsurface drainage and discharge it laterally so that it will not be discharged onto the track area.
- (3) Signage Standards.
- (a) Railroad signs.
 1. The railroad shall erect and maintain a whistling post or whistle board in each direction from the grade crossing along its track(s). The sign will serve to alert operating train crews to the upcoming crossing so that a whistle warning may be sounded. The location of the post or board shall comply with any applicable FRA regulations and railroad company standards or policies.
 2. The railroad shall install and maintain an emergency notification sign at each grade crossing in accordance with the MUTCD. The sign shall show the USDOT-AAR crossing inventory number, the railroad line name, the milepost, the roadway name, and the telephone number to call to report an emergency.
 - (b) Roadway signing and marking.
 1. Passive warning devices shall be installed and maintained on the roadway at grade crossings in accordance with the MUTCD.
 2. When a grade crossing is located at or near a roadway-roadway intersection, signage shall be installed at the intersection in compliance with the MUTCD.
- (4) Standards for Active Warning Devices.
- (a) The Department may require the installation of active warning devices at a grade crossing in accordance with the following minimum criteria, or as the Department may determine after conducting a diagnostic team field review:

<u>Type of Active Warning Device</u>	<u>Minimum Criteria</u>
1. Flashing-Light Signals (Post-Mounted) with Automatic Gates:	3,000 or more exposures, <u>or</u> Inadequate sight distances, as determined in accordance with the AASHTO Design Manual, <u>or</u> The roadway at the grade crossing is a designated school bus route, commercial passenger vehicle route, or hazardous material route, <u>or</u> Two or more railroad tracks at the grade crossing that may allow concurrent rail operations, <u>or</u> The presence of a signalized highway intersection within 200 feet of the grade crossing.
2. Flashing-Light Signals (Overhead) with Automatic Gates:	Three or more lanes (including turning lanes) on the roadway at the grade crossing, <u>or</u> 3,000 or more exposures <u>and</u> inadequate sight distances, as determined in accordance with the AASHTO Design Manual.
3. Flashing-Light Signals (see above) with Automatic Four-Quadrant Gates:	20,000 or more exposures <u>and</u> the presence of any passenger train traffic on the railroad.

- (b) All active warning devices required under this Rule shall be installed and maintained in accordance with the MUTCD.
- (c) Whenever a signalized grade crossing is to be located near a signalized highway intersection, pre-emption shall be provided for in compliance with the MUTCD.
- (d) Railroad Circuitry.

In connection with the installation of active warning devices at a grade crossing, the following types of circuitry shall be installed and maintained on the railroad tracks in accordance with the criteria specified below:

:

<u>Type of Circuitry</u>	<u>Criteria</u>
1. Style C or AC/DC:	Infrequently used tracks.
2. Motion Sensors:	On regularly or frequently used tracks, where there is considerable switching, trains stopped or parked near the grade crossing, or consistent train speed.
3. Constant Warning Time:	On regularly or frequently used tracks with variable train speeds.

(5) Grade Separation.

- (a) Grade separation shall be required, and no grade crossing will be approved, on any roadway/railroad crossing where there is full control of access on the roadway.
- (b) The department may also decline to approve the proposed construction or conversion of a grade crossing where:
 - 1. A grade separation is feasible (based on topographic conditions, cost, and other relevant factors), and
 - 2. Special hazardous conditions exist, including but not limited to the presence of high-speed (75 mph or more) passenger train traffic on the railroad or where trains block the crossing for long periods of time.

(6) Pedestrian Walkways and Bicycle Paths.

- (a) Where federal funds are to be used in paying for all or any part of the costs of installing the grade crossing, provisions for pedestrian walkways and bicycle paths should be considered.
- (b) Any pedestrian walkway or bicycle path included in the grade crossing shall comply with the Americans' With Disabilities Act accessibility guidelines contained in 28 C.F.R., Part 36, Appendix A, or as amended.

Authority: T.C.A. §65-11-101.

1680-12-1-.05 PROCEDURES FOR APPROVALS AND INSPECTIONS.

(1) Application Requirement.

- (a) Whenever any person, railroad company, or governmental entity other than the Department proposes the construction of a public crossing, as defined in these Rules, or the conversion of a private crossing to a public crossing, as defined in these Rules, the person, railroad company or governmental entity proposing the construction or conversion must submit a written application for approval of the plans to the Rail Safety Office, or to such other office of the Department as the Commissioner may designate.

- (b) The current address of the Rail Safety Office is Suite 1800400, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, and the current telephone number is (615) 741-1341; however, the address and telephone number of the Rail Safety Office may be subject to change without amendment of these Rules.

(2) Information Required in Application.

The applicant shall provide all relevant information regarding the proposed construction or conversion of the grade crossing, as determined by the Department. At a minimum, unless the Department expressly waives any item of information, the application shall contain:

- (a) The name, address, and telephone number of the applicant, and the identity of the contact person;
- (b) The name and address of the railroad company that owns and/or operates trains on the track(s) at the grade crossing, and the identity of the contact person, if known;
- (c) The name and address of the governmental entity having jurisdiction, or which will have jurisdiction, over the roadway at the grade crossing, and the identity of the contact person;
- (d) Maps or other documentation showing:
 - 1. The general and specific location of the proposed construction or conversion of the grade crossing;
 - 2. The USDOT-AAR crossing inventory number, if assigned, and the railroad milepost number for the crossing;
 - 3. The geodetic coordinates of the grade crossing;
 - 4. Existing patterns of traffic for:
 - (i) emergency vehicles;
 - (ii) school buses;
 - (iii) vehicles carrying hazardous materials; and
 - (iv) trucks;
 - 5. The distance in each direction along the roadway to any public road intersection within 2,500 feet of the grade crossing, the type of public roads, and the type of roadway signs and markings and/or traffic control devices, if any, at each such intersection; and
 - 6. The distance in each direction along the railroad track(s) to any public road intersection within one mile of the grade crossing, the type of public roads, the type of crossing (grade crossing or grade separation), and the type of passive warning devices and/or active warning devices, if any, at each such crossing;
 - 7. The distance in each direction along the railroad track(s) to any intersection or junction with another railroad track within two miles of the grade crossing;

8. Sight distance calculations, consistent with the AASHTO Design Manual, for the presence of any objects or features that obstruct the view from a vehicle on the roadway to the grade crossing or the approaching train;
- (e) Plans for the construction or conversion showing:
 1. The present and proposed grade and alignment of the roadway within 500 feet of the grade crossing, or within 100 feet beyond the limit of work, whichever is less;
 2. The present and proposed grade and alignment of the railroad track(s) within 200 feet of the grade crossing;
 3. The present and proposed right-of-way limits of the roadway and railroad at the grade crossing; and
 4. The presence of any objects that could obstruct the view from a vehicle on the roadway to the grade crossing or the approaching train
 - (f) Construction details, including but not limited to the typical roadway cross-section;
 - (g) The temporary traffic control plan, or plan for the detour of vehicular traffic, during construction;
 - (h) The proposed schedule of construction or conversion;
 - (i) The existing ADT and the projected 5-year and 20-year ADT on the roadway at the grade crossing;
 - (j) The percentage of trucks at the grade crossing;
 - (k) The design speed of the roadway and the posted speed limits of vehicles using the roadway at the grade crossing;
 - (l) The existing -frequency of trains, types of trains (passenger, freight or switching), and the maximum and average speeds of trains using the railroad track(s) at the grade crossing;
 - (m) The existing and proposed roadway signs, markings, or other traffic control devices, and any existing and/or proposed passive warning devices, active warning devices and interconnections, at the grade crossing; and
 - (n) A list of any alternatives to the proposed construction or conversion that have been considered by the applicant, including but not limited to the feasibility of a grade separation rather than at-grade crossing.
- (3) Preparation of Plans by Registered Engineer.

All engineering plans, specifications and calculations required by the Department, as in subparagraphs (2)(d) through (2)(n) above, shall be prepared by a registered engineer licensed in the State of Tennessee.

- (2) Review of Applications.

- (a) Upon receipt of an application, together with the required application fee as described in Rule 1680-12-1-.07 below, the Rail Safety Office, or such other office of the Department as the Commissioner may designate, shall promptly send notice of the application to the railroad company that owns and/or operates trains on the track(s) and the governmental entity having or which will have jurisdiction over the roadway at the location of the proposed construction or conversion of the grade crossing.

- (b) The Rail Safety Office, or other designated office, shall review the application for the proposed construction or conversion in accordance with the standards established in these Rules. That office may obtain the assistance of other employees within the Department as it may deem appropriate, and, in accordance with any contract approved by the Commissioner, it may obtain the services of an independent consultant to assist in reviewing the application.
 - (c) The Rail Safety Office, or other designated office, may determine that a field review by a diagnostic team is appropriate in order to conduct an adequate investigation and review of the proposed construction or conversion. The diagnostic team shall include such employees of the Department, or independent consultants hired by the Department, and such other persons as the Rail Safety Office, or other designated office, may deem appropriate in each case.
 - (d) Upon completing such review, the Rail Safety Office, or other designated office, shall make a preliminary recommendation to approve, reject, or request a modification of the proposed construction or conversion in accordance with the standards established in these Rules. The applicant shall be given notice of this preliminary recommendation and an opportunity, not to exceed 30 days, in which to respond to the preliminary recommendation.
 - (e) The preliminary recommendation shall also be submitted to the FHWA, the affected local government, and the affected railroad, if different than the applicant, and these entities shall be given an opportunity, not to exceed 30 days, in which to review and comment on the application and the Department's preliminary recommendation.
 - (f) The Rail Safety Office, or other designated office, shall consider any response received from the applicant and any comments received from the FHWA, the affected local government, and the affected railroad, if different from the applicant. Upon completing this final review and consideration, the Rail Safety Office, or other designated office, shall make a final recommendation to the Commissioner to approve, reject or modify the proposed construction or conversion.
 - (g) Upon receiving the final recommendation, the Commissioner shall make the decision to approve or reject the proposed construction or conversion, or to approve the proposed construction or conversion subject to modification. The Commissioner's decision shall be final.
 - (h) Upon receiving the Commissioner's decision, the applicant shall notify the Rail Safety Office, or other designated office, regarding the applicant's intent to proceed with the construction or conversion as approved by the Department, including the date upon which the construction or conversion is expected to begin.
- (5) Construction or Conversion by the Department.
- (a) In the case of any construction or conversion of a grade crossing proposed by the Department, the Department shall conduct an internal review of the proposed construction or conversion to assure compliance with the standards established under these Rules. This internal review shall be conducted in accordance with such policies and procedures as the Commissioner may deem appropriate.
 - (b) Before making a final decision to proceed with the proposed construction or conversion, the Department shall submit its proposal to the FHWA, the affected local government, and the affected railroad for review and comment as provided in paragraph (4)(e) above.
- (6) Inspections.

- (a) At or near the completion of the proposed construction or conversion, the applicant shall notify the Rail Safety Office, or other designated office, of the completion date and request a final inspection before opening the completed grade crossing to vehicular traffic.
- (b) The Rail Safety Office, or other designated office, shall perform a final inspection to assure that the construction or conversion of the grade crossing has been completed in accordance with the plans approved by the Department. That office may obtain the assistance of other employees within the Department as it may deem appropriate, and, in accordance with any contract approved by the Commissioner, it may obtain the services of an independent consultant to assist in performing the inspection. The Department shall charge the applicant inspection fee, as provided in Rule 1680-12-1-.07 below.
- (c) Upon completing the final inspection, the Rail Safety Office, or other designated office, shall notify the applicant in writing that:
 - 1. The construction or conversion has been completed in accordance with the plans approved by the Department and may be opened to vehicular traffic; or
 - 2. The construction or conversion has not been completed in accordance with the plans approved by the Department and may not be opened to vehicular traffic. In such a case, the Department shall identify the deficiency in the construction or conversion that the applicant must correct before the grade crossing may be opened to vehicular traffic. Upon correcting the deficiency, the applicant shall so notify the Department and again request a final inspection, subject to payment of an inspection fee, as provided in this Rule.

Authority: T.C.A. §65-11-101.

1680-12-1-.06 COSTS OF CONSTRUCTION OR CONVERSION.

Any developer, individual, corporation or other private entity proposing the construction or conversion of a grade crossing shall be responsible for all costs associated with the construction or conversion of such crossing in compliance with the plans approved by the Department.

Authority: T.C.A. §65-11-101.

1680-12-1-.07 FEES:

- (1) General.

The Department shall charge a fee for the review and approval of plans for the construction or conversion of grade crossings and for the inspection of the completed crossings. Such fees shall be sufficient to offset the cost to the Department of performing these services, and any such fee shall be paid by the applicant seeking approval of the plans for the crossing.

- (2) Application Fee.

Each application to the Department requesting review and approval of plans for the construction of a public crossing or conversion of a private crossing in accordance with these Rules shall be accompanied by the payment of an application fee in the amount of \$3,000. This fee shall be made payable to the Department.

(3) Inspection Fee.

Each notice of request to the Department to perform a final inspection of the completed construction or conversion shall be accompanied by the payment of an inspection fee in the amount of \$1,000. This fee shall be made payable to the Department.

Authority: T.C.A. §65-11-101.

The notice of rulemaking set out herein was properly filed in the Department of State on the 16th day of January, 2002. (01-33)

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, 5105 Edmondson Pike, Nashville, Tennessee, commencing at 9:00 A.M., local time, on the 28th day of March, 2002.

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 or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee 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, Carolyn Wilson, 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 1660-1-27 BARTLETT HUNTER EDUCATION CENTER

AMENDMENT

1660-1-27-.05 Bartlett Hunter Education Center is amended by deleting section (1) in its entirety and by substituting the following new subsection (1) so that, as amended, the rule shall read:

- (1) Use Fees
 - (a) Adult (16 years of age and older) - \$10.00 per hour.
 - (b) Youth (15 years of age or less) - \$2.00 per hour.
 - (c) Adult Annual Fee (16 years of age and older) - \$400.00
 - (d) Youth Annual Fee (15 years of age or less) - \$50.00

Authority: T.C.A. § 70-1-206 and §70-2-224

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

NEW RULE

1660-1-14-.15 FEES FOR USE OF AGENCY LANDS.

- (1) Fees for hiking, camping, bird watching, horseback riding, off road vehicle use or any other recreational activity, shall be as follows:
 - (a) Residents
 - 1. Annual Fee - \$30.00 or possession of either a resident combination hunting and fishing license or a Sportsman License.
 - 2. Daily Fee - \$5.00 or possession of any resident license.
 - (b) Non-Residents
 - 1. Annual Fee - \$160.00 or possession of a Non-Resident Annual "All Game" hunting license.
 - 2. Daily Fee - \$25.00 or possession of any non-resident license.
- (2) These fees shall not be required where a Reelfoot Preservation Permit is required.

Authority: T.C.A. § 70-1-206 and §70-2-225

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of January, 2002. (01-56)



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 January 2, 2002 and ending January 31, 2002.


RILEY C. DARNELL
Secretary of State

Blank

pg. 172

CHANGE OF ADDRESS

If your address has changed, please supply the following information immediately:

- official compilation - Rules and Regulations of the State of Tennessee*
- Tennessee Administrative Register*

Former Address

name of firm or organization

street or box number and street or rural route

<i>city</i>	<i>state</i>	<i>zip code</i>
-------------	--------------	-----------------

New Address

name of firm or organization

<i>name of person to receive publication</i>	()
	<i>telephone number</i>

street or box number and street or rural route

<i>city</i>	<i>state</i>	<i>zip code</i>
-------------	--------------	-----------------

Mail This Form To:
Tennessee Secretary of State
Division of Publications
8th Floor Snodgrass Tower
312 8th Avenue North
Nashville TN 37243 - 0310



Blank

pg. 174

ORDER FORM

Please send the subscription(s) indicated below. A check in the amount of \$ _____ is enclosed.

New Subscription: *official compilation – Rules and Regulations of the State of Tennessee.* The multi-volume compilation is \$ 950.00, which includes monthly replacement pages and the *Tennessee Administrative Register* for the first year.

Renewal: *official compilation – Rules and Regulations of the State of Tennessee.* After one year the compilation subscription is renewable for \$ 150.00 per year. The renewal includes monthly replacement pages for the compilation and the *Tennessee Administrative Register*.

New Subscription: *Tennessee Administrative Register (T.A.R.).* The T.A.R., a monthly publication containing notices of rulemaking hearings as well as emergency, proposed and public necessity rules, is available for \$ 50.00 per year. This does not include replacement pages for the compilation.

name of firm or organization

()

name of person to receive publication

telephone number

street address

city

state

zip code

Mail This Form To:

Tennessee Secretary of State
Division of Publications
8th Floor Snodgrass Tower
312 8th Avenue North
Nashville TN 37243 - 0310

