

TAAAR



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RILEY C. DARNELL
Secretary of State

Division of Publications
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312 8th Avenue North
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PREFACE

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

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

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

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

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

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

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

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

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ANNOUNCEMENTS

DEPARTMENT OF FINANCIAL INSTITUTIONS – 0180

ANNOUNCEMENT OF FORMULA RATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 8.00%.

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 December 2003 is 9.21 percent 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 calculated rate is 5.21 percent.

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 November 2003. 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 NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
11-05	Nov 7, 2003	0450 Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists	Notice of Stay of Effective Date of Rules		0450-1-.04, 0450-1-.05, 0450-1-.07, and 0450-1-.08, filed with the Department of State on the 4th day of September, 2003 to have become effective on the 18th day of November, 2003	Stuart Bonnington, Ed.D., President	Nov 7, 2003 through Jan 7, 2004
11-06	Nov 7, 2003	0940 Mental Health and Developmental Disabilities Division of Mental Health Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 0940-3-8 Community-Based Screening Process For Emergency Involuntary Admissions</i>	Marthagem Whitlock Mental Health and Developmental Disabilities 3rd Fl Cordell Hull Bldg 425 5th Ave N Nashville TN 37243 (615) 532-6744	Jan 21, 2004
11-07	Nov 13, 2003	0800 Labor and Workforce Development Division of Occupational Safety and Health	Proposed Rules	Amendment	<i>Chapter 0800-1-1 Occupational Safety and Health Standards for General Industry</i> 0800-1-1-.06 Adoption and Citation of Federal Standards <i>Chapter 0800-1-6 Occupational Safety and Health Standards for Construction</i> 0800-1-6-.02 Adoption and Citation of Federal Standards <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	Michael M. Maenza Labor and Workforce Development OSHA 3rd Fl A Johnson Twr 710 J Robertson Pkwy Nashville TN 37243-0659 615-741-7036	March 29, 2003
11-09	Nov 17, 2003	0460 Dentistry	Rulemaking Hearing	Amendments	<i>Chapter 0460-1 General Rules</i> 0460-1-.01 Definitions	Ernest Sykes, Jr OGC 26th Fl TN Twr	

ANNOUNCEMENTS

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
11-09, cont.			Rules		Chapter 0460-2 Rules Governing the Practice of Dentistry 0460-2-.06 Specialty Certification	312 8th Ave N Nashville TN 37247-0120 (615) 741-1611	
11-12	Nov 19, 2003	1200 Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	Chapter 1200-8-6 Standards for Nursing Homes 1200-8-6-.02 Licensing Procedures Chapter 1200-8-11 Standards for Homes for the Aged 1200-8-11-.02 Licensing Procedures Chapter 1200-8-15 Standards for Residential Hospice 1200-8-15-.02 Licensing Procedures Chapter 1200-8-24 Standards for Birthing Centers 1200-8-24-.02 Licensing Procedures Chapter 1200-8-25 Standards for Assisted-Care Living Facilities 1200-8-25-.02 Licensing Procedures Chapter 1200-8-26 Standards for Home Care Organizations Providing Home Health Services 1200-8-26-.02 Licensing Procedures Chapter 1200-8-27 Standards for Home Care Organizations Providing Hospice Services 1200-8-27-.02 Licensing Procedures Chapter 1200-8-28 Standards for HIV Supportive Living Facilities 1200-8-28-.02 Licensing Procedures Chapter 1200-8-29	Ernest Sykes, Jr. Health Office of General Counsel 26th FITN TWR 212 8th Ave N Nashville TN 37247-0120 615-532-7156	

SEQ NO	FILE DATE	DEPARTMENT & DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
11-12, cont.					<i>Standards for Home Care Organizations Providing Home Medical Equipment</i> 1200-8-29-.02 Licensing Procedures		
11-13	Nov 19, 2002	1500 Tennessee Human Rights Commission	Proposed Rules	Amendments	<i>Chapter 1500-1 Rules for Acting Upon Complaints of Discrimination</i> 1500-1-.02 Practice and Procedure	Scott J. Mayer General Counsel TN Human Rights Comm 530 Church St., Suite 400 Nashville, TN 37219-2331 (615) 741-5825	March 29, 2004
11-15	Nov 24, 2003	1240 Human Services Family Assistance Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1240-1-54 Child Care Families First Program</i> 1240-1-54-.02 Transitional Child Care Coverage	Phyllis A. Simpson Citizens Plaza Bldg 400 Piedmont St Nashville, TN 37248 (615) 313-2266	Feb 7, 2003
11-21	Nov 26, 2003	0520 Board of Education	Proposed Rules	New Rules	<i>Chapter 0520-14-2 Review Procedure for Commissioner of Charter School Waiver Requests</i> 0520-14-2-.01 Purpose and Scope 0520-14-2-.02 Requirements for Requesting Waivers 0520-14-2-.03 Review of Waiver Requests 0520-14-2-.04 Criteria for Granting Waivers	Christy Ballard 7103 Johnson Pkwy Andrew Johnson Twr 9th Fl Nashville TN 37243 (615) 741-2921	March 29, 2004

HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720**NOTICE OF BEGINNING OF REVIEW CYCLE**

Applications will be heard at the **January 28, 2004**
Health Services and Development Agency 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 the review cycle effective November 1, 2003. The review cycle includes a 60 day period of review by the Tennessee Department of Health or the Department of Mental Health and Developmental Disabilities. Upon written request by interested parties the staff of The Health Services and Development Agency shall conduct a public hearing. *Certain unopposed applications may be placed on a "consent calendar." Such applications are subject to a review less than 60 days including a 30-day period of review by the Department of Health or Department of Mental Health and Developmental Disabilities. Applications intended to be considered on the consent calendar, if any, are denoted by an asterisk.*

Pursuant to T.C.A., Section 68-11-1609(g)(1) effective May 2002, any health care institution wishing to oppose a Certificate of Need must file a written objection with the Health Services and Development Agency and serve a copy on the contact person no later than fifteen (15) days before the agency meeting at which the application is originally scheduled.

For more information concerning each application you may contact the Health Services and Development Agency (615/741-2364).

NAME AND ADDRESS

DESCRIPTION

Sunbelt Homecare
149 Health Care Lane
Jellico (Campbell), TN 37762
CN0309-074
Contact Person:
Pam Hamman, R.N.,
Home Care Dir. Contact's
Phone No.: 423-784-1244

The addition of Scott and Morgan Counties to the existing service area. The service area currently includes the following counties: Anderson, Campbell, Claiborne, Hancock, Knox, Loudon, Roane and Union.
\$ 3,000.00

The Endoscopy Center North, LLC
Dannaher Lane and Emory Road
Knoxville (Knox), TN 37849
CN0309-077
Contact Person: David Lewis, Esq.
Contact's Phone No.: 865-545-7547

The establishment of a single specialty ambulatory surgical treatment center (ASTC) and the initiation of outpatient endoscopy surgery in approximately 6,600 gross square feet of leased space in a medical office building to be built on the campus of St. Mary's North in the vicinity of the intersection of Dannaher Lane and Emory Road in Knoxville, Tennessee.
\$ 2,967,761.00

NAME AND ADDRESS	DESCRIPTION
<p>NHC HomeCare 1923 Memorial Blvd., Suite A Murfreesboro, TN 37130 CN0310-085 Contact Person: Bruce K. Duncan, Asst. Vice-Pres. Contact's Phone No.: 615-890-2020</p>	<p>The addition of Macon County to the existing service area. The service area currently includes the following counties: Bedford, Cannon, Coffee, Clay, Cumberland, Dekalb, Davidson, Fentress, Grundy, Jackson, Overton, Pickett, Putnam, Marshall, Morgan, Rutherford, Smith, Trousdale, Warren, White, Williamson, Wilson and Van Buren. The parent office is located at 1923 Memorial Boulevard, Suite A, Murfreesboro (Rutherford County), Tennessee. Upon approval Macon County will be removed from the NHC HomeCare license in Springfield (Robertson County), Tennessee.</p> <p>\$ 4,000.00</p>
<p>Amedisys Home Health (Johnson City) 2528 Wesley Street, Suite 1 Johnson City (Washington), TN 37601 CN0310-086 Contact Person: Newell D. Yarborough, Jr., Pres. Contact's Phone No. 912-925-5896</p>	<p>The addition of Cocke, Hamblen, Grainger and Hancock counties to the existing service area. The service area currently includes the following counties: Sullivan, Washington, Hawkins, Greene, Carter, Johnson and Unicoi.</p> <p>\$ 28,000.00</p>
<p>Laughlin Memorial Hospital 1420 Tusculum Boulevard Greeneville (Greene), TN 37745 CN0310-087 Contact Person: Charles Whitfield, Jr., CEO Contact's Phone No.: 423-787-5021</p>	<p>The initiation of mobile positron emission tomography (PET) services one day per week.</p> <p>\$ 412,700.00</p>
<p>PET Imaging Center 322 Hospital Drive Jackson (Madison), TN 38305 CN0310-088 Contact Person: John Wellborn, Consultant Contact's Phone No.: 615-665-2022</p>	<p>The acquisition of a position emission tomography (PET) unit and the initiation of services to be located within the Cancer Care Center at 322 Hospital Blvd., Jackson (Madison County), TN.</p> <p>\$ 2,277,790.00</p>
<p>Extencicare of West Tennessee, Inc. 903 East Wood Street Paris (Henry), TN 38242 CN0310-090 Contact Person: Graham Baker, Attorney at Law Contact's Phone No. 615-383-3332</p>	<p>Modification of an existing home health agency to add ten counties, delete three (3) counties and to relocate the parent office from 903 East Wood Street, Paris (Henry County) to 90 Directors Row, Jackson (Madison County), TN. The existing counties being served are: Benton, Carroll, Chester, Crockett, Dyer, Gibson, Henderson, Henry, Houston, Humphreys, Madison, Obion, Stewart, and Weakley. The addition of the following ten counties: Decatur, Fayette, Hardeman, Hardin, Haywood, Lake, Lauderdale, McNairy, Shelby, and Tipton. The deletion of the</p>

NAME AND ADDRESS	DESCRIPTION
<p>PET Imaging of Cleveland, LLC 2636 Peerless Road (unofficial) Cleveland (Bradley), TN 37312 CN0310-091 Contact Person: Lawrence J. Samuels, M.D. Contact's Phone No. 423-894-6590</p>	<p>following three counties: Houston, Humphreys and Stewart. \$ 25,000.00</p>
<p>+Imaging Alliance – Chattanooga PET, LLC Dannaher Lane and Emory Road Chattanooga (Hamilton), TN 37849 CN0310-092 Contact Person: Willis S. Sanders, III, CEO Contact's Phone No.: 615-312-0600</p>	<p>The establishment of an outpatient diagnostic center (ODC), the acquisition of a combination positron emission tomography (PET) and computerized tomography (CT) GE Discovery LS Unit in approximately 3,000 square feet of renovated.* Simultaneous Review application filed by Chattanooga Imaging- CN0310-093 \$ 4,466,973.00</p>
<p>+Chattanooga Imaging 1710 Gun Barrel Road Chattanooga (Hamilton), TN 37421 CN0310-093 Contact Person: James Scott McDearman, Esq. Contact's Phone No.: 423-756-8400</p>	<p>The replacement of an existing mobile positron emission tomography (PET) scanner as approved in CN0209-093A with a fixed base or stationary General Electric combination PET and computerized tomography (CT) scanner for the provision of PET/CT imaging services in an existing outpatient diagnostic center (ODC).* Filed as Simultaneous Review with Imaging Alliance-Chattanooga PET, LLC-CN0310-092. \$ 1,856,000.00</p>

**BOARD FOR PROFESSIONAL COUNSELORS, MARITAL AND FAMILY THERAPISTS,
AND CLINICAL PASTORAL THERAPISTS - 0450**

NOTICE OF STAY OF EFFECTIVE DATE OF RULES

The Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists hereby gives notice that the seventy-five (75) day period for amendments to rules 0450-1-.04, 0450-1-.05, 0450-1-.07, and 0450-1-.08, filed with the Department of State on the 4th day of September, 2003 to have become effective on the 18th day of November, 2003 is hereby stayed for sixty (60) days. Period of time not to exceed sixty (60) days.

Stuart Bonnington, Ed.D., President
Board for Professional Counselors,
Marital and Family Therapists,
and Clinical Pastoral Therapists

The notice of stay set out herein was properly filed in the Department of State on the 7th day of November , 2003, and will be effective from the date of filing for a period of sixty (60) days. The stay of effective date of rules will remain in effect through the 7th day of January, 2004, unless properly withdrawn by the agency. (11-05)

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

- 1200 - Department of Health - Water Quality Control Board - Division of Water Pollution Control - Emergency rules concerning criterion for nutrients, chapter 1200-4-3 General Water Quality Criteria, 8 T.A.R. (August 15, 2003) - Filed July 31, 2003; effective through January 12, 2004. (07-32)
- 1660 - Wildlife Resources Commission - Emergency rules regarding waterway zoning on Ft. Loudoun Lake, chapter 1660-2-7 Rules and Regulations Governing Operations of Vessels, 10 T.A.R. (October 2003) - Filed September 4, 2003; effective through February 16, 2003. (09-07)

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PROPOSED RULES

THE TENNESSEE STATE BOARD OF EDUCATION - 0520 CHARTER SCHOOLS

CHAPTER 0520-14-2 RULES OF PROCEDURE FOR COMMISSIONER REVIEW OF CHARTER SCHOOL WAIVER REQUESTS

Presented herein are proposed rules of the Tennessee State Board of Education submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Education to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. Such petition to be effective must be filed in the Department of Education, Office of General Counsel , Andrew Johnson Tower, 9th floor, located at 710 James Robertson Parkway, Nashville, TN 37243 and in the Department of State, 8th Floor, William R. Snodgrass Tennessee Tower, 312 8th Avenue, North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, please contact: Christy Ballard, 710 James Robertson Parkway, Andrew Johnson Tower, 9th Floor, Department of Education, Nashville, TN 37243, and (615) 741-2921.

The text of the proposed rules is as follows:

NEW RULES

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0520-14-2-.01 Purpose and Scope	0520-14-2-.03 Commissioner's Review of Waiver Requests
0520-14-2-.02 Requirements for Requesting Waivers	0520-14-2-.04 Criteria for Granting Waivers

0520-14-2-.01 PURPOSE AND SCOPE

- (1) Pursuant to T.C.A. §49-1-201(c) (20) (C), the commissioner may prepare and promulgate, without state board of education approval, such rules and regulations as are solely necessary for the administrative operation and functions of the department: however, this authority shall not supersede the powers of the state board of education in policy matters and may be used only in performance of the commissioner's administrative responsibilities.
- (2) These rules implement the provisions of Tennessee Code Annotated, §49-13-105, of the Tennessee Public Charter Schools Act of 2002, permitting a sponsor of a proposed charter school to apply to either the local education agency or to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed charter school's ability to meet its goals or comply with its mission

statement. The commissioner of education shall apply the following rules and regulations in considering charter school waiver requests.

Authority: T.C.A. §49-1-201(c)(20)(C); §49-13-105.

0520-14-2-.02 REQUIREMENTS FOR REQUESTING WAIVERS

- (1) All waiver requests shall be submitted in writing to the commissioner by the sponsor of the proposed charter school no later than sixty (60) days prior to the school's intention to implement the waiver, if granted.
- (2) All waiver requests shall include a listing of the specific state board rule or statute requested to be waived.
- (3) All waiver requests shall include the missions and goals of the charter school as contained in the application filed with the local board of education pursuant to T.C.A. §49-13-107.
- (4) All waiver requests shall include detailed documentation of the grounds for requesting the waiver and specific evidence showing how the state board rule or statute currently inhibits or hinders the proposed charter school's ability to meet its goals or comply with its mission statement.
- (5) All waiver requests filed with the commissioner of education shall contain information on other waiver requests filed with a local board of education including the status of those waiver requests.

Authority: T.C.A. §49-1-201(c)(20)(C); §49-13-105; §49-13-107.

0520-14-2-.03 COMMISSIONER'S REVIEW OF WAIVER REQUESTS

- (1) Incomplete requests (requests not containing the information listed under Rule 0520-14-2-.02(1) through (5) above), shall not be considered.
- (2) The commissioner may request additional information to supplement a completed request. Additional information shall be requested by the commissioner within 2 days of receiving the request from the sponsor.
- (3) The commissioner shall take action on all waiver requests within ten (10) days of receipt of the request unless the commissioner has requested additional information from the sponsor.
- (4) In the event the commissioner requests additional information, the commissioner shall take action on the waiver request within ten (10) days from the receipt of the additional information.

Authority: T.C.A. §49-1-201(c)(20)(C); §49-13-105.

0520-14-2-.04 CRITERIA FOR GRANTING WAIVER REQUESTS

- (1) All waivers shall be granted for one academic year and may be renewed annually by filing a new request pursuant to the above listed procedure.

- (2) Pursuant to T.C.A. §49-13-105(b), the commissioner shall not waive regulatory or statutory requirements related to:
- (a) Federal and state civil rights;
 - (b) Federal, state, and local health and safety;
 - (c) Federal and state public records;
 - (d) Immunizations;
 - (e) Possession of weapons on school grounds;
 - (f) Background checks and fingerprinting of personnel;
 - (g) Federal and state special education services;
 - (h) Student due process;
 - (i) Parental rights;
 - (j) Federal and state student assessment and accountability;
 - (k) Open meetings; and
 - (l) At least the same equivalent time of instruction as required in regular public schools.
- (3) The commissioner shall not consider requests for waivers of the enrollment eligibility limitations contained in T.C.A. §49-13-106.

Authority: T.C.A. §49-1-201(c)(20)(C); §49-13-105.

The proposed rules set out herein were properly filed in the Department of State on the 26th day of November, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of March, 2004. (11-21)

TENNESSEE HUMAN RIGHTS COMMISSION - 1500

**CHAPTER 1500-1
RULES FOR ACTING UPON COMPLAINTS OF DISCRIMINATION**

Presented herein are proposed rule amendments of the Human Rights Commission submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Human Rights Commission to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition, to be effective, must be filed in the Human Rights Commission, Cornerstone Square Building, 530 Church Street, Suite 400, Nashville, Tennessee 37219-2331; and in the Department of State, 8th Floor, William R Snodgrass Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243; and must be signed by twenty-five (25) persons who will be affected by the rule, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Scott J. Mayer, Tennessee Human Rights Commission, Suite 400, 530 Church Street, Nashville, TN 37219-2331, (615) 741-5825.

The text of the proposed amendments are as follows:

AMENDMENTS

Paragraph (4) of rule 1500-1-.02 Practice and Procedure is amended by adding the following language as a new subparagraph (q) so that, as amended, the new subparagraph shall read:

- (q) “Verified” shall mean sworn to or affirmed before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths and take acknowledgements, or supported by a declaration in writing under penalty of perjury.

Authority: T.C.A. §§ 4-21-202 and 4-21-302

Paragraph (6) of rule 1500-1-.02 Practice and Procedure is amended by deleting the current introductory paragraph in its entirety and substituting the following language so that as amended, the introductory paragraph of paragraph (6) shall read:

- (6) Complaint Form. The complaint shall be in writing and shall be verified. The Commission shall make available to the public a standardized complaint form upon request. Notary public service shall be furnished without charge by the Commission. The complaint shall contain the following:

Authority: T.C.A. §§ 4-21-202 and 4-21-302

Paragraph (10) of rule 1500-1-.02 Practice and Procedure is amended by adding a new subparagraph (c) so that, as amended, the new subparagraph shall read:

- (c) A complaint may be amended to cure technical defects or omissions, including failure to verify the complaint, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original complaint will relate back to the date the complaint was first received.

Authority: T.C.A. §§ 4-21-202 and 4-21-302

The proposed rules set out herein were properly filed in the Department of State on the 19th day of November, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of March, 2004. (11-13)

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

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

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

AMENDMENT

Paragraph (2) of Rule 0800-1-1-.06 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “July 1, 2003” to “January 1, 2004”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2004 except as provided in Rule 0800-1-1-.07 of this chapter.

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

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

Paragraph (2) of Rule 0800-1-6-.02 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “July 1, 2003” to “January 1, 2004”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of January 1, 2004 except as provided in Rule 0800-1-6-.03 of this chapter.

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

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

Paragraph (2) of Rule 0800-1-7-.01 Adoption and Citation of Federal Standards is amended by changing the date in the second line from “July 1, 2003” to “January 1, 2004”, so that as amended the paragraph shall read:

- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of January 1, 2004 except as provided in Rule 0800-1-7-.02 of this chapter.

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

Rule 0800-1-7-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date in the second line from “July 1, 2003” to “January 1, 2004”, so that as amended the rule shall read:

0800-1-7-.02 EXCEPTIONS TO ADOPTION OF FEDERAL STANDARDS IN 29 CFR PART 1928. As of January 1, 2004, there are no exceptions.

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

The proposed rules set out herein were properly filed in the Department of State on the 13th day of November, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of March, 2004. (11-07)

PUBLIC NECESSITY RULES

**PUBLIC NECESSITY RULES NOW IN EFFECT
(SEE T.A.R. CITED)**

- 0640 - Department of Finance and administration - Bureau of TennCare - Public Necessity rules due process rights of persons currently eligible and potentially eligible for medical assistance through the TennCare Standard program, chapter 1200-13-15 Rules of the TennCare Administrative Hearings and Officials, 8 T.A.R. (August 15, 2003) - Filed July 14, 2003; effective through December 26, 2003. (07-12)

- 1200 - Department of Health - Bureau of Health services - Public necessity rules relating to Conrad J-1 Visa Waiver physicians, chapter 1200-20-11 Rules and Regulations Governing the State Conrad J-1 Visa Waiver Program, 9 T.A.R. (September 2003) - Filed August 13, 2003; effective through January 25, 2004. (08-10)

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RULEMAKING HEARINGS

THE TENNESSEE STATE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS - 0120

There will be a hearing before the Tennessee State Board of Architectural and Engineering Examiners to consider the promulgation of rules and amendments to rules pursuant to T.C.A. § 62-2-203(c). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Room 160 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 9:00 a.m. (Central Time) on Thursday, February 19, 2004.

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, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact the State Board of Architectural and Engineering Examiners, attention Barbara Bowling, Tennessee State Board of Architectural and Engineering Examiners, 500 James Robertson Parkway, 3rd Floor, Nashville, Tennessee 37243 at (615) 741-3221.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0120-1 REGISTRATION REQUIREMENTS AND PROCEDURES

AMENDMENTS

Paragraph (3) of rule 0120-1-.05 Applications – Engineer is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) The deadline for receipt of applications from candidates who must be examined prior to registration as an engineer shall be determined annually by the Board after the Board receives notification from the NCEES of the dates of the examinations.

Authority: *T.C.A. §62-2-203(c).*

Paragraph (2) of rule 0120-1-.14 Examinations – Engineer, Engineer Intern is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) The passing grade on both the “Fundamentals of Engineering” and “Principles and Practice of Engineering” examinations shall be seventy (70).

Authority: T.C.A. §62-2-203(c).

Subparagraph (a) of paragraph (4) of rule 0120-1-.25 Renewal of Registration is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) A registered certificate holder (over age 62) may place his certificate, if in good standing, in retirement status during the biennial license renewal cycle by filing a form designated by the Board. No fee shall be required. Such registrant shall renew his certificate by so notifying the Board.

Authority: T.C.A. §§62-2-203(c) and 62-2-307(f).

CHAPTER 0120-5 CONTINUING EDUCATION

AMENDMENTS

Paragraph (2) of rule 0120-5-.04 Basic Requirements is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) A registrant seeking biennial renewal for each two (2)-year period thereafter must, as a prerequisite to renewal, submit satisfactory evidence to the Board of having obtained twenty-four (24) PDH's the two (2) years immediately preceding application for renewal (carryover hours, not exceeding twelve (12) hours, from the preceding renewal period may be included). At least thirteen (13) of the PDH's claimed should address health, safety and welfare issues and technical competency.

Authority: T.C.A. §62-2-203(d).

Paragraph (3) of rule 0120-5-.04 Basic Requirements is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (3) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for initial registration. However, at the time of first registration renewal, the registrant must demonstrate completion of the required continuing education.

Authority: T.C.A. §62-2-203(d).

Rule 0120-5-.04 Basic Requirements is amended by adding the following language as a new paragraph (4) immediately following existing paragraph (3):

- (4) Individuals reapplying for registration shall, as a prerequisite to registration, submit evidence satisfactory to the Board of having obtained twenty-four (24) PDH's (thirteen (13) of which shall address health, safety and welfare issues and technical competency) during the twenty-four (24) months immediately preceding reapplication.

Authority: T.C.A. §62-2-203(d).

Subparagraph (c) of paragraph (2) of rule 0120-5-.06 Types of Acceptable Continuing Education is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (c) Attendance at structured seminars, tutorials, short courses, correspondence courses, televised courses, Internet courses or videotaped courses;

Authority: T.C.A. §62-2-203(d).

Subparagraph (d) of paragraph (2) of rule 0120-5-.06 Types of Acceptable Continuing Education is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (d) Attendance at in-house educational programs sponsored by corporations or other organizations;

Authority: T.C.A. §62-2-203(d).

Subparagraph (a) of paragraph (1) of rule 0120-5-.08 Exceptions is amended by deleting the text of the subparagraph in its entirety and substituting instead the following language so that, as amended, the subparagraph shall read:

- (a) A new registrant is not required to satisfy the continuing education requirements prescribed in this chapter as a prerequisite for initial registration. However, at the time of first registration renewal, the registrant must demonstrate completion of the required continuing education.

Authority: T.C.A. § 62-2-203(d).

Paragraph (2) of rule 0120-5-.10 Records is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (2) Required records include but are not limited to the following:
 - (a) A log showing the type(s) of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, description of the activity and PDH credit(s) earned; and
 - (b) A transcript or completion certificate or at least two (2) of the following types of documentation: attendance verification records in the form of signed attendance receipts, paid receipts, a copy of a listing of participants signed by a person in responsible charge, or other documents supporting evidence of attendance.

Authority: T.C.A. § 62-2-203(d).

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 18th day of November, 2003. (11-20)

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-1-144, 63-4-101, 63-4-103, 63-4-106, 63-4-112, 63-4-114, and 63-4-115. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 23rd day of January, 2004.

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

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

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

SUBSTANCE OF PROPOSED RULES**AMENDMENTS**

Rule 0260-2-.02 Scope of Practice, is amended by adding the following new paragraph (4), so that as amended the new paragraph (4) shall read as follows:

- (4) Chiropractic Acupuncture is included within the statutory description of the chiropractic scope of practice found at T.C.A. § 63-4-101.
 - (a) Purposes – The purpose of this rule is to recognize the unfortunate fact that the term “acupuncture” is statutorily used at T.C.A. § 63-6-1001 to describe the form of health care developed from traditional and modern oriental medicine, when in reality “acupuncture” is but one of many of the treatment modalities encompassed within that form of health care. That form of health care differs distinctly from the form of health care called chiropractic but both include different forms of acupuncture as one of many treatment modalities within their scope of practice.
 - (b) Definition – “Chiropractic Acupuncture” as that term is used in this rule means the insertion of needles, which while not being the primary mode of therapy, is an adjunctive treatment used for restoration and maintenance of normal neuromuscular and musculoskeletal functions.
 - (c) Any licensee intending to practice chiropractic acupuncture must hold a certification issued by the board authorizing such practice. To be eligible for that certification the licensee must comply with both of the following:
 1. Cause to be submitted directly from the educational institution to the Board’s administrative office proof of successful completion of a Board approved acupuncture training course(s) consisting of at least one hundred (100) hours which must include training in “clean needle technique;” and

2. Cause to be submitted directly from the National Board of Chiropractic Examiners to the Board's administrative office proof of successful completion of its National Acupuncture Board Examination.
- (d) Any licensee intending to practice that form of health care defined by T.C.A. § 63-6-1001 as "acupuncture," rather than chiropractic acupuncture as defined by this rule must obtain a certification from the Board of Medical Examiners' Advisory Council on Acupuncture.
- (e) To avoid any misrepresentation or confusion over the distinctions between "acupuncture" as that term is defined by T.C.A. § 63-6-1001 and "chiropractic acupuncture" any licensee who chooses to advertise the use of chiropractic acupuncture in their practice may do so only by use both of the words "Chiropractic Acupuncture" and may not at any time advertise or hold themselves out to be "acupuncturists" unless the licensee is in possession of a certification issued pursuant to T.C.A. §§ 63-6-1001 from the Board of Medical Examiners' Advisory Council on Acupuncture

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

Rule 0260-2-.12 Continuing Education, is amended by deleting subparagraph (6) (d) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6) (d) shall read:

- (6) (d) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraph (b) above may be subject to disciplinary action.

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

Rule 0260-2-.15 Disciplinary Actions, Civil Penalties, Screening Panels, Subpoenas, and Assessment of Costs, is amended by deleting paragraph (5) in its entirety and substituting instead the following language, so that as amended, the new paragraph (5) shall read:

- (5) Assessment of costs in disciplinary proceedings shall be as set forth in T.C.A. §§ 63-1-144 and 63-4-115.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-144, 63-4-103, 63-4-106, 63-4-114, and 63-4-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of November, 2003.
(11-02)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780
DIVISION OF FIRE PREVENTION

There will be a hearing before the commissioner of commerce and insurance or her designee to consider the promulgation of rules pursuant to T.C.A. § 68-120-101. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in Room 640 on the first floor of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 9:00 a.m. (Central Time) on the 21st day of January, 2004.

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 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 Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Verna Norris, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-7190.

For a copy of this notice of rulemaking hearing, contact Randy Safer, Director of Fire Prevention at 500 James Robertson Parkway, Davy Crockett Tower, 3rd Floor, Nashville, Tennessee 37243, telephone (615) 741-7190.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-2-19
AUDITS OF LOCAL CODES ENFORCEMENT AGENCIES

NEW RULES

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0780-2-19-.05	Questionnaire	0780-2-19-.12	Inadequate Enforcement
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0780-2-19-.07	Standards for Reviewing Plans and Codes		

0780-2-19-.01 AUTHORITY. The state fire marshal is authorized by T.C.A. § 68-120-101 to establish rules necessary to effectuate the audit at least once every three years of records and transactions of each local government which chooses to enforce its own code pursuant to T.C.A. § 68-120-101(b)(2). The purpose of the audit shall be to ensure that the local government is adequately performing its enforcement functions, pursuant to T.C.A. § 68-120-101.

Authority: T.C.A. § 68-120-101(b)(3)(B).

0780-2-19-.02 DEFINITIONS. For the purposes of this chapter, the following definitions are applicable:

- (1) "State Fire Marshal" means the commissioner of the Department of Commerce and Insurance or his or her designee.
- (2) "Exempt Jurisdiction" means a local governmental jurisdiction that has complied with the requirements of T.C.A. § 68-120-101(b)(2).

- (3) “Adequate Enforcement” is the performance rating that is given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that it is adequately performing its building code enforcement programs.
- (4) “Marginal Enforcement” is the performance rating that is given to an exempt jurisdiction that has demonstrated during the audit process provided for herein that, although it is not adequately performing its building code enforcement programs, public safety is not jeopardized by such inadequate performance such that the danger to the public is imminent.
- (5) “Inadequate Enforcement” is the performance rating that is given to a locality that has demonstrated during the audit process provided for herein that it is not adequately performing its building code enforcement programs and that such failure may result in imminent danger to the public.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.03 AUDIT TEAM. The state fire marshal shall establish an audit team to perform the quality audit of an exempt jurisdiction.

- (1) The audit team should be composed of one administrator, one plans examiner, and one field inspector, or any other staff deemed necessary by the state fire marshal.
- (2) The state fire marshal shall name a team leader to be the person who will be responsible for the audit.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.04 NOTICE. The audit team shall initiate written contact with each exempt jurisdiction no less than once every three (3) years to explain the audit process and to establish a date and time for an on-site audit at the jurisdiction’s headquarters. The date established will be confirmed in writing and delivered to the exempt jurisdiction confirming the date and time of the audit and explaining its purpose.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.05 QUESTIONNAIRE.

- (1) A questionnaire may be attached to the written notice described in rule 0780-2-19-.04.
- (2) The questionnaire shall be completed by the responsible official of the exempt jurisdiction.
- (3) The questionnaire may request at a minimum the following information:
 - (a) The name and title, mailing address, and telephone number of the official accountable for the exempt jurisdiction’s codes enforcement operation;
 - (b) The name, address, and main telephone number of the head of the exempt jurisdiction’s highest governing body;
 - (c) The edition date and type of building and fire codes currently enforced by the exempt jurisdiction, along with any ordinances and/or amendments to the codes enforced by the exempt jurisdiction;

- (d) A flow chart identifying major activities of the exempt jurisdiction's enforcement program from plans submittal to the issuance of a certificate of occupancy, to enforcement against non-approved construction projects;
 - (e) An organizational chart of the exempt jurisdiction with staff resumes;
 - (f) A list of the exempt jurisdiction's building and fire officials with certification numbers who are responsible for the exempt jurisdiction's plans review and field inspections;
 - (g) The types of building occupancies mandating plans review and approvals under the exempt jurisdiction's rules and laws;
 - (h) The exempt jurisdiction's record keeping and archiving procedures.
- (4) The audit questionnaire shall be completed by the exempt jurisdiction and returned to the state fire marshal within thirty (30) days from the date of receipt.
 - (5) The audit team may assess the exempt jurisdiction's codes and all amendments thereto as provided in the exempt jurisdiction's answer to the questionnaire in order to determine whether the codes remain as stringent as what was originally certified to the state fire marshal under T.C.A. § 68-120-101(b)(2)(A).

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.06 ON-SITEAUDIT.

- (1) At the scheduled date and time, the audit team will conduct an on-site audit.
- (2) During the on-site audit, the audit team will review the exempt jurisdiction's codes enforcement process. This review may include, but not be restricted to, coverage of the following processes:
 - (a) initial plans submittal and application;
 - (b) plans review;
 - (c) other local agency reviews;
 - (d) plans approval;
 - (e) permitting;
 - (f) field inspections;
 - (g) the exempt jurisdiction's enforcement process;
 - (h) record filing;
 - (i) plans archiving;
 - (j) issuance of occupancy permits.

- (3) During the on-site audit, the audit team may select a recently completed building, a building currently under construction, or both a recently completed building and a building currently under construction, that went through the exempt jurisdiction's codes enforcement process for the purpose of determining the effectiveness of the exempt jurisdiction's plans review inspection program. Only those occupancies that would be subject to review by the state fire marshal in non-exempt jurisdictions will be reviewed during the audit.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.07 STANDARDS FOR REVIEWING PLANS AND CODES. Review of plans for a recently completed building(s) or a building(s) currently under construction will consist of applying the exempt jurisdiction's building and fire codes. The review may include but not be limited to the following:

- (1) building construction type;
- (2) building height and area;
- (3) occupancy classification;
- (4) fire resistive assemblies for walls, floors, enclosures, shafts, stairs, corridors, hazardous locations, and rated walls to deck;
- (5) firestopping of penetrations through rated walls or floors;
- (6) adequacy and capacity of the means of egress;
- (7) automatic fire suppression sprinkler, standpipe, fire pump, and fire hydrant systems, and fixed suppression systems;
- (8) fire and smoke detection systems, supervisory systems, and hold open devices;
- (9) emergency lights; and
- (10) exit signs.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.08 FIELD INSPECTION. The audit team may conduct a field inspection of the selected project(s) to compare the approved construction documents with what was built or is being built and to verify code compliance.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.09 EXIT REVIEW MEETING AND AUDIT REPORT. Upon completion of the audit, the audit team may conduct an exit review meeting with representatives of the exempt jurisdiction in order to discuss any issues found during the audit and to put the representatives on notice that an audit report will be issued documenting the audit and outlining any recommendations. The audit report shall be prepared and signed by the audit team leader and sent to the exempt jurisdiction and the leader of the jurisdiction's highest governing body.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.10 AUDIT REPORT – CONTENTS.

- (1) The report should contain a brief statement of the on-site audit date with a determination of the adequacy of the exempt jurisdiction codes enforcement program with an overall performance rating of adequate enforcement, marginal enforcement, or inadequate enforcement. After explaining the scope of the audit and identifying the audit team, the report will contain assessments of the following four major components of the audit report.
 - (a) Audit Questionnaire Review – The report will:
 1. identify the current codes that were reported in the questionnaire as being enforced, along with any corresponding ordinances referenced;
 2. assess whether the questionnaire response is adequately responsive to whether the appropriate staff have current state inspector certifications;
 3. identify whether any new employees have received appropriate state certifications when performing building or fire codes inspections; and
 4. identify any needed clarifications.
 - (b) On-Site Audit: The report will briefly describe the current legal process that is in place in the exempt jurisdiction to ensure the enforcement of building and fire codes for both approved construction projects and for unauthorized construction projects.
 - (c) Findings: The report will detail positive performance areas and inadequate areas of performance, citing any laws, regulations, or standards that are not met by the exempt jurisdiction's current system of building codes enforcement.
 - (d) Recommendation: The report may include a request that a plan of corrective action be submitted to the state fire marshal within thirty (30) days following the receipt of the audit report. The plan of corrective action shall include a statement of the exempt jurisdiction's intent to correct the inadequate areas of performances as identified in the findings and a statement that details how and when each deficiency will be corrected. The recommendation may also list any other relevant recommendations that benefit the codes enforcement operation.
- (2) The audit reports may be used in subsequent audits that are performed pursuant to this chapter as an aid in identifying whether improvements have been made since prior audits, whether the approved plan of corrective action has been followed, and for listing any deficiencies that have not been corrected based on the previous audit report.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.11 PLAN OF CORRECTIVE ACTION.

- (1) When the audit report cites any deficiencies, the jurisdiction shall submit a response to the state fire marshal to the audit report no later than thirty (30) days after receipt. The response shall be in the form of a plan of corrective action that details how and when each deficiency will be corrected.

- (2) An exempt jurisdiction that seeks an extension of the deadline must ensure delivery of a written request for an extension to the state fire marshal before the passage of the deadline for responding to the audit report.
- (3) The state fire marshal will review the plan of corrective action submitted by the exempt jurisdiction and issue a written response approving or denying the plan of corrective action.
- (4) The state fire marshal will make any denial of a plan of corrective action in writing and will include with it any details necessary to bring the plan of corrective action into an acceptable condition.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.12 INADEQUATE ENFORCEMENT.

- (1) The state fire marshal will notify the exempt jurisdiction of any finding of inadequacy during the on-site exit review meeting following the follow-up audit. The audit team leader will send a written notice of any finding of inadequate enforcement to the exempt jurisdiction's chief enforcement officer and to the leader of its highest governing body. In that notice, the state fire marshal may require said exempt jurisdiction to immediately cease performance in any area in which a grade of inadequate enforcement is received upon receipt of the written notice.
- (2) The audit team may perform a follow-up audit at a time of its choosing after issuing a finding of inadequate enforcement in order to evaluate the progress made to improve the codes enforcement program. The follow-up audit will be conducted in the same manner as the audit process as outlined in rules 0780-2-19-.03 through 0780-2-19-.11.
- (3) If the follow-up audit results in a follow-up audit report score of adequate enforcement or marginal enforcement, then the jurisdiction may resume independent codes enforcement activity under T.C.A. § 68-120-101 for those areas in which it was formerly required to cease due to the written notice of the state fire marshal after an original grade of inadequate enforcement.

Authority: T.C.A. §68-120-101(b)(3)(B).

0780-2-19-.13 LOSS OF EXEMPT STATUS.

- (1) Within ten (10) days of receiving a score of "inadequate enforcement", the jurisdiction may make a written request for an informal conference with the state fire marshal.
- (2) Should there be no request for an informal conference, a contested case hearing under the Uniform Administrative Procedures Act will be scheduled to determine the status of the jurisdiction's enforcement programs.
- (3) If, pursuant to a contested case hearing, it is found that the exempt jurisdiction's codes enforcement program is inadequate, the state fire marshal may take any lawful action, up to and including the suspension or revocation of the jurisdiction's authority to maintain an independent codes enforcement program.

Authority: T.C.A. §68-120-101(b)(3)(B).

The notice of rulemaking hearing set out herein was properly filed in the December of State on this the 26th day of November, 2003. (11-18)

DEPARTMENT OF COMMERCE AND INSURANCE - 0780

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of rules pursuant to Tenn. Code Ann. § 56-1-311(b). 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 Room 640 of the Davy Crockett Tower, located at 500 James Robertson Parkway in Nashville, Tennessee at 10:00 a.m. (Central Time) on Tuesday, January 20, 2004.

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, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 at (615) 741-0481.

For a copy of this Notice of Rulemaking Hearing, contact the Division of Regulatory Boards, attention Betty Lassiter, 500 James Robertson Parkway, 2nd Floor, Nashville, Tennessee 37243 at (615) 741-3449.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-5-11 GENERAL PROVISIONS

NEW RULES

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0780-5-11-.01 Assessment of Investigatory and Hearing Costs

0780-5-11-.01 ASSESSMENT OF INVESTIGATORY AND HEARING COSTS

- (1) The Division of Regulatory Boards ("Division") or any board, commission or agency attached thereto is authorized to assess the actual and reasonable costs of the investigation, prosecution and hearing of any disciplinary action held in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Tenn. Code Ann. Title 4, Chapter 5, Part 3 in which sanctions of any kind are imposed on any person or entity required to be licensed, permitted, registered or otherwise authorized by the Division or any board, commission or agency attached thereto.
- (2) When the Division or any board, commission or agency attached thereto, in any final order requires the "payment of costs," the requirement may include payment of any or all of the following:
 - (a) All costs attributed to and assessed against the Division, board, commission or agency by the Division's, board's, agency's or commission's investigations section in connection with the investigation and prosecution of the matter, including all investigator time, travel and lodging incurred during the investigation and prosecution of the matter. Costs for travel and lodging shall be assessed in accordance with the State of Tennessee Comprehensive Travel Regulations promulgated by the Department of Finance and Administration. Investigator time shall be assessed in accordance with the hourly rate per investigator and based on the formula used to calculate the same from the most recent fiscal year.

- (b) All costs assessed against the Division, board, commission or agency for the use of the Division facilities and personnel for prosecution of the matter.
 - (c) All costs assessed against the Division, board, commission or agency for the appearance fees, transcripts, time, travel and lodging of administrative law judges, court reporters and witnesses required in the prosecution of the matter. Costs for travel and lodging shall be assessed in accordance with the State of Tennessee Comprehensive Travel Regulations promulgated by the Department of Finance and Administration.
- (3) As soon as practicable after the conclusion of the disciplinary matter, the Division, board, commission or agency shall enter a final order. If the Division, board, commission or agency has ordered the assessment of costs, the Division, board, commission or agency shall incorporate an itemized account of the assessment in the final order. The person or entity disciplined shall pay all costs assessed pursuant to this rule within thirty (30) days after the effective date of the Division's, board's, commission's or agency's final order.
 - (4) If the person or entity disciplined has not paid the costs assessed within thirty (30) days, the Division, board, commission or agency may apply to the chancery court of Davidson County for a judgment to recover such costs.

Authority: T.C.A. §56-1-311.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 26th day of November, 2003. (11-19)

BOARD FOR PROFESSIONAL COUNSELORS, MARITAL AND FAMILY THERAPISTS, AND CLINICAL PASTORAL THERAPISTS - 0450

There will be a hearing before the Tennessee Board for Professional Counselors, Marital and Family Therapists, and Clinical Pastoral Therapists to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-22-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 26th day of January, 2004.

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

For a copy of the entire text of this notice of rulemaking hearing contact: Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0450-1-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) If an application is incomplete when received in the Board's administrative office, a deficiency letter will be sent to the applicant notifying him of the deficiency. The requested information must be received in the Board's administrative office before a licensure decision will be made. Under no circumstances shall licensure be granted to any applicant whose application the board has determined to be incomplete.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-104, 63-22-107, 63-22-110, 63-22-116, and 63-22-120.

Rule 0450-2-.06, Fees, is amended by deleting part (4) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new part (4) (b) 1. shall read:

- (4) (b) 1. Application and Oral Examination \$200.00

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-103, 63-22-106, and 63-22-107.

Rule 0450-2-.07, Application Review, Approval, Denial, Interviews, is amended by deleting paragraph (4), paragraph (8), part (9) (a) 1. and part (9) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new paragraph (4), paragraph (8), part (9) (a) 1., and part (9) (a) 2. shall read:

- (4) If an application is incomplete when received in the Board's administrative office, a deficiency letter will be sent to the applicant notifying him of the deficiency. The requested information must be received in the Board's administrative office before a licensure decision will be made. Under no circumstances shall licensure be granted to any applicant whose application the Board has determined to be incomplete.
- (8) Whenever requirements for licensure are not completed within six (6) months from the date of the initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.
- (9) (a) 1. The application has not been completed by the applicant within six (6) months after it was initially reviewed by the Board; and
- (9) (a) 2. The applicant fails to sit for the written exam, if applicable, or oral examination within six (6) months after being notified of eligibility.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-103, 63-22-106, 63-22-107, 63-22-110, and 63-22-115.

Rule 0450-3-.07, Application Review, Approval, and Denial, is amended by deleting paragraph (2), paragraph (5), paragraph (6), and part (7) (a) 2. in their entirety and substituting instead the following language, so that as amended, the new paragraph (2), paragraph (5), paragraph (6), and part (7) (a) 2. shall read:

- (5) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to revoke the certificate. The notice will allow the applicant the opportunity to meet the requirements of certification within thirty (30) days from date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the certificate, the applicant shall have the right to proceed according to Rule 0450-3-.07 (5).
- (6) Whenever requirements for licensure are not completed within six (6) months from the date of the initial review of application and credentials, written notification will be mailed to the applicant and the application file will be closed. An applicant whose file has been closed shall subsequently be considered for licensure only upon the filing of a new application and payment of all appropriate fees.
- (7) (a) 2. The applicant fails to sit for the written examination, if applicable, or oral examination, within six (6) after being notified of eligibility.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-201, 63-22-203, 63-22-205, and 63-22-206.

Rule 0450-3-.07, Application Review, Approval, and Denial, is amended by adding the following language as new paragraphs (1) and (2) and renumbering the remaining paragraphs accordingly:

- (1) An application shall be requested from the Board's administrative office or shall be downloaded from the Internet. The submitted application shall be accompanied by the nonrefundable application fee pursuant to rule 0450-3-.06.
- (2) Applications for licensure will be accepted throughout the year and files which are completed on or before the 30th day prior to the meeting will ordinarily be processed at the next board meeting scheduled for the purpose of reviewing files.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-22-102, 63-22-201, 63-22-203, 63-22-205, and 63-22-206.

Rule 0450-3-.08, Examinations, is amended by deleting subparagraph (5) (b) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

- (5) (b) An applicant will be notified in writing by certified mail of the results of the appeal. In acting on an appeal, the Board may take such action as it deems appropriate, including issuance of a certificate where the Board determines that the applicant has demonstrated the required competence. If the applicant does not concur with the finding of the Board, the applicant may proceed pursuant to Rule 0450-3-.07 (5).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-22-102, 63-22-201, and 63-22-203.

The notice of rulemaking set out herein was properly filed in the Department of State on the 7th day of November, 2003.
(11-04)

**THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 1200
DIVISION OF AIR POLLUTION CONTROL**

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20th day of January, 2004.

Written comments will be included in the hearing records if received by the close of business January 20, 2004, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to (January 20, 2004) or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, telephone (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Martin Smith at 615-532-0569. For complete copies of the text of the notice, please contact Mr. Martin Smith, Department of Environment and Conservation, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone 615-532-0569.

SUMMARY OF PROPOSED CHANGE

**CHAPTER 1200-3-27
NITROGEN OXIDES**

AMENDMENT

Rule 1200-3-27-.07 Voluntary NO_x Emissions Reduction Program is amended by substituting a different rule in place of the existing rule, so that, as amended, the rule shall read:

1200-3-27-.07 VOLUNTARY NO_x EMISSIONS REDUCTION PROGRAM

- (1) The purpose of this rule is to provide a method by which sources, including stationary, mobile and area sources, that emit NO_x but are not subject to the requirements of Rule .06 of this chapter can voluntarily make emission reductions and thereby earn marketable NO_x allowances for use in the EPA's NO_x Budget Trading Program.
- (2) Terms used in this rule shall have the meanings given in Rule .06 of this chapter, Rule .02 of this chapter, and other rules of Division 1200-3, in this order of precedence, except for the following term:

“Applicant” means any person causing or implementing an emission reduction strategy that submits a NO_x emission reduction proposal under this Rule .07.

- (3) An applicant may submit to the technical secretary a NO_x emission reduction proposal, as described in Paragraph (7) below, for reducing NO_x emissions during control periods. Each source or emission reduction strategy from which NO_x reductions will be obtained shall meet the following criteria at the time a NO_x emission reduction proposal is submitted and during each control period thereafter for which creditable emission reductions are claimed:
- (a) Is not subject to the requirements of Rule .06 of this chapter, including opt-in units;
 - (b) Where the emission reduction proposal involves a major or minor stationary source:
 - 1. Is in compliance with all NO_x emission requirements applicable to the source so that any NO_x reductions made pursuant to this rule are surplus to those requirements; and
 - 2. Makes emission reductions that are not the result of shutting down;
 - (c) Where the emission reduction proposal involves mobile or area sources, the emission reduction strategy must result in emission reductions that are surplus to any emission reduction requirement affecting those sources;
 - (d) Installed or implemented a NO_x emission control strategy after July 1, 2002;
 - (e) Conducted an emission baseline determination using the protocol described in Part (7)(a)4. below prior to initiating the NO_x emission control strategy; and
 - (f) Is not an IC engine that according to EPA's final NO_x SIP Call inventory had actual average daily NO_x emissions of one ton or more during the five-month period May 1 through September 30, 1995.
- (4) An applicant may participate by:
- (a) Submitting a NO_x emission reduction proposal in accordance with Paragraph (7) below;
 - (b) Making NO_x emission reductions during a control period that are federally enforceable, quantifiable, and surplus to regulatory requirements; and
 - (c) Submitting a quantification report, in accordance with Paragraph (8) below, after any control period for which creditable reductions are claimed.
- (5) Emission reductions made pursuant to this rule shall be quantified using an emission reduction quantification protocol approved by the EPA or approved by the technical secretary and submitted to EPA for approval. The emissions measurements recorded and reported in accordance with this protocol shall be used to determine the emission reductions made under this rule. Such emission reductions shall be eligible to be issued as allowances for use in the EPA's NO_x Budget Trading Program. Each applicant shall comply with the applicable monitoring requirements prescribed by the approved protocol.
- (6) A protocol approved by the technical secretary, as provided in Paragraph (5) above, shall require a 30-day public comment period before it is submitted to EPA for a 45-day adequacy review. The submittal to EPA shall include the protocol and any comments received during the comment period. If the EPA gives notice during the adequacy review period that the protocol is inadequate, the protocol may not be used. If the EPA approves the protocol or takes no action during the adequacy review period, the protocol may be used.

- (7) Each NOx emission reduction proposal shall contain the elements and be processed as follows:
- (a) Each NOx emission reduction proposal shall include the following:
 - 1. Information identifying the source(s) affected by the emission reduction strategy from which NOx emission reductions have been or will be achieved, including, as appropriate, the name, location, operating permit number, and identification number of the source;
 - 2. Description of the NOx controls present on the source(s) affected by the emission reduction strategy prior to making emission reductions;
 - 3. Explanation of the methods used to achieve the NOx emission reductions;
 - 4. Identification of the emission reduction quantification protocol, approved by the EPA or approved by the technical secretary and submitted to EPA for approval, that will be used to calculate the proposed emission reductions; and
 - 5. Emissions baseline determination for the source(s) affected by the emission reduction strategy made in accordance with the approved protocol described in Paragraph (5) above.
 - (b) The technical secretary shall notify in writing the applicant submitting a NOx emission reduction proposal of his decision with respect to the proposal. If the technical secretary disapproves a proposal, this written notice shall include a statement of the specific reasons for the disapproval of the proposal. Following such a disapproval the applicant may submit an amended or a different NOx emissions reduction proposal.
- (8) Each NOx emission reduction quantification report shall be submitted and processed as follows:
- (a) By October 30 following the control period during which the emission reductions were made, the applicant must submit a quantification report to the technical secretary stating the reductions achieved during the control period.
 - (b) The quantification report shall include the following:
 - 1. The amount in tons of the NOx emission reductions made during the control season, calculated based on the approved quantification protocol and including supporting calculations and documentation;
 - 2. Certification by the applicant that the NOx reductions achieved during the control period were calculated based on the approved protocol; and
 - 3. A written statement signed by the applicant certifying the following:

Based on information and belief formed after reasonable inquiry, I believe the statements and information in this document are true, accurate and complete.
 - (c) The technical secretary shall review the quantification report and either approve the emission reductions as being in accordance with the quantification protocol or disapprove them. If they are approved, the technical secretary shall notify the EPA of such approval in accordance with Paragraph (9) below. If they are disapproved, the technical secretary shall notify the applicant in writing and shall state the specific reasons for the disapproval. The applicant may rectify the deficiencies in its quantification report and submit an amended report.

- (9) Upon approval of a quantification report, the technical secretary shall notify the EPA of the number of allowances to be transferred from the state's general account into an account of the applicant or its designee for use in the federal NOx Budget Trading Program. The total number of allowances to be transferred shall be ninety percent (90%) of the creditable NOx emission reductions achieved by the emission reduction strategy. The remaining ten percent (10%) shall be retired by the state. The Administrator shall record the transfer.
- (10) Each NOx allowance issued for NOx emission reductions meeting the requirements of this rule is an authorization to emit one ton of NOx in accordance with the federal NOx Budget Trading Program.
- (11) Within 90 days after the NOx allowance transfer deadline for the NOx Budget Trading Program, the technical secretary shall provide the Administrator a report reconciling the allowances transferred for the purpose of this rule, including:
 - (a) The number of allowances deposited into the state's general account for the control period immediately preceding such deadline;
 - (b) The number of allowances earned by applicants pursuant to this rule; and
 - (c) The number of unused allowances, which shall be retired.
- (12) An applicant submitting a quantification report that contains an error that affects an allocation must notify the technical secretary in writing within 30 days of the error.
- (13) If an applicant has submitted a quantification report that incorrectly overstated the amount of emission reductions achieved and, as a result of this report, allowances in excess of those that should have been transferred from the state's general account were transferred into another account for use in the federal NOx Budget Trading Program, the applicant shall place into the state's general account an amount of allowances equal to three times the amount of the overstatement within 30 days of discovery of the overstatement by the applicant.
- (14) The applicant, or its designee, shall maintain all records used to calculate the emission reductions in accordance with the quantification protocol. Each record shall be maintained for five (5) years following the date the record is created and shall be made available for inspection by the technical secretary or his representative immediately upon request.
- (15) After the third control period this program has been in effect, and every three years thereafter, the technical secretary shall evaluate the program and submit a report to the board, summarizing the results of the evaluation.

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 25th day of November, 2003. (11-17)

**THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 1200
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 Collierville Town Hall Chambers, 500 Poplar View Parkway, Collierville, TN on February 26, 2004, 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:

<u>Site Number</u>	<u>Site Name</u>
Shelby County (79)	
79-676	Smalley-Piper Collierville, 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 25th day of November, 2003. (11-16)

**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 a.m. (CDST) on the 15th day of January, 2004.

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 visit the Department of Health's web page on the Internet at www.state.tn.us/health and click on "rulemaking hearings" or 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

**CHAPTER 1200-8-10
STANDARDS FOR AMBULATORY SURGICAL TREATMENT CENTERS**

AMENDMENTS

Rule 1200-8-10-.01, Definitions, is amended by adding the following language as two (2), new, appropriately numbered paragraphs:

- () Cancer Treatment and Radiation Clinic. A facility in which the only procedures performed are diagnostic and therapeutic radiology, chemotherapy and related services.
- () Gastrointestinal Endoscopy Clinic. A facility in which the only procedures performed are those related to the gastrointestinal tract and other endoscopic procedures. This excludes laparoscopy and limits entry to major body cavities by needle aspiration only.

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 7th day of November, 2003. (11-03)

THE TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§4-5-202, 4-5-204, and 63-18-211. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 16th day of January, 2004.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0870-1-.02, Practice Standards and Inspection of Establishments, is amended by deleting paragraph (4) but not its subparagraphs and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (4) (e) and (4) (f), so that as amended, the new paragraph (4) but not its subparagraphs, and the new subparagraphs (4) (e) and (4) (f) shall read:

- (4) Sexual Activity and Other Therapeutic Treatments Prohibited
- (4) (e) Prohibited therapeutic treatments not within the scope of practice of massage therapists include:
 1. therapeutic treatments into the anus and anal canal, i.e. colonic irrigations and enemas; and
 2. therapeutic breast massage; and
 3. therapeutic vaginal massage.
- (4) (f) Engaging in any of the activities or treatments described in this paragraph shall subject the licensee to disciplinary action, as provided in rule 0870-1-.13.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-208, and 63-18-211.

Rule 0870-1-.04, Licensure and Provisional Licensure Process, is amended by deleting subparagraphs (1) (e) and (1) (l) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (e) and (1) (l) shall read:

- (1) (e) An applicant shall attach to his application a “passport” type photograph taken within the preceding twelve (12) months. The photo must be affixed to the proper page of the application.
- (1) (l) Reciprocity licensure applicants must submit along with their applications copies of the statutes and rules governing the licensure/certification qualifications and process from all states in which they hold current licensure/certification. The Board will determine in its sole discretion whether the licensure/certification standards of any other state are as stringent as those of Tennessee for purposes of granting licensure under this rule.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-204, 63-18-205, 63-18-211, and 63-18-212.

Rule 0870-1-.11, Retirement and Reactivation of Licensure, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (2) (e) in its entirety, and is further amended by adding the following language as new paragraphs (3) and (4) and renumbering the remaining paragraph accordingly, so that as amended, the new catchline, the new paragraph (1) but not its subparagraphs, the new subparagraph (2) (b), and the new paragraphs (3) and (4) shall read:

Rule 0870-1-.11 Retirement, Inactivation, and Reactivation of Licensure.

- (1) Licensees who wish to retain their licenses but not actively practice may avoid compliance with the licensure renewal process and continuing education requirements by doing the following:
 - (2) (b) Pay the licensure renewal fee and state regulatory fee as provided in rule 0870-1-.06.
- (3) Establishments that wish to retain their licenses but not operate as an establishment may avoid compliance with the licensure renewal process and continuing education requirements by doing the following:
 - (a) Obtain from, complete and submit to the Board Administrative Office a request for establishment inactivation form.
 - (b) Submit any documentation which may be required by the form to the Board Administrative Office.
- (4) Any establishment whose license has been placed in inactive status may activate such license by doing the following:
 - (a) Submit a written request for establishment licensure reactivation to the Board Administrative Office; and
 - (b) Pay the establishment biennial licensure renewal fee and state regulatory fee as provided in rule 0870-1-.06. If reactivation was requested prior to the expiration of one (1) year from the date of inactivation, the Board may require payment of the late renewal fee and past due licensure renewal and state regulatory fees; and
 - (c) No application for reactivation of an establishment license shall be considered unless the establishment has passed its most recent inspection.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-204, 63-18-206, and 63-18-211.

Rule 0870-1-.19, Professional Ethical Standards, is amended by deleting subparagraph (1) (q) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraph (1) (r) and renumbering the current subparagraph (1) (r) as (1) (s), so that as amended, the new subparagraphs (1) (q) and (1) (r) shall read:

- (1) (q) Respect the client's right to treatment with informed and voluntary consent by obtaining and recording informed voluntary written consent of the client, or client's advocate, before performing
 1. therapeutic treatments beyond the normal narrowing of the ear canal and normal narrowing of the nasal passages; and
 2. therapeutic treatments in the oropharynx.
- (1) (r) Respect the client's right to treatment with informed and voluntary consent by obtaining and recording informed voluntary written or verbal consent of the client, or client's advocate, before providing treatment other than the treatments identified in subparagraph (1) (q) of this rule; and

Authority: T.C.A. §§4-5-202, 4-5-204, 63-18-208, and 63-18-211.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of November, 2003. (11-01)

BOARD OF OPTOMETRY - 1045

There will be a hearing before the Tennessee Board of Optometry to consider the promulgation of an amendment to a rule 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 Magnolia 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 February, 2004.

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**AMENDMENT**

Rule 1045-2-.02, Licensure Process, is amended by deleting paragraph (9) in its entirety and substituting instead the following language, so that as amended, the new paragraph (9) shall read:

- (9) Application Review, Approval, and Denial
- (a) Initial review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator or designee, provided that final approval of all applications is made and ratified by the Board.
 - (b) If an application is incomplete when received by the Board's Administrative Office, or if the reviewing Board member or the Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator shall notify the applicant of the information required. The applicant shall cause the requested information to be received in the Administrative Office on or before the sixtieth (60th) day after receipt of the notification.
 - 1. Such notifications shall be sent certified mail, return receipt requested, from the Administrative Office.
 - 2. If requested information is not timely received, the application file will be considered abandoned and will be closed by the administrator. If that occurs, the applicant shall be notified that the Board will not consider issuance of a license until a new completed application and fees are submitted. The Board may, in its discretion, keep a file open past this deadline if special circumstances warrant.
 - (c) A Board member or Board designee who has reviewed the completed application and determined that the applicant has met all the requirements for licensure, renewal or reinstatement may issue an applicant a temporary authorization to practice, as described in T.C.A. § 63-1-142, subject to ratification by the full Board at its next regularly scheduled meeting. If the Board member or designee cannot make such a determination, the applicant shall be advised that the Board will consider the application at its next regularly scheduled meeting.
 - (d) The Board or its designee may delay a decision on an application for any applicant from whom the Board wishes additional information.
 - (e) If after reviewing the completed application the Board denies, limits, conditions or restricts the issuance of a license, the action shall become final and the following shall occur:
 - 1. A notification of the denial, limitation, condition or restriction shall be sent by the Administrative Office by certified mail, return receipt requested, that contains the specific reasons for denial, limitation, condition or restriction, and such notification shall contain all the specific statutory or rule authority for the denial, limitation, condition or restriction.
 - 2. The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.

- (i) An applicant has a right to a contested case hearing only if the licensure denial, limitation, condition or restriction is based on subjective or discretionary criteria.
- (ii) An applicant may be granted a contested case hearing if the licensure denial, limitation, condition or restriction is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's Administrative Staff, the application can not be approved and the reasons for continued denial, limitation, condition or restriction present genuine issues of fact and/or law which are appropriate for appeal. Requests for a hearing must be made in writing to the Administrative Office within thirty (30) days of the receipt of the notice of denial, limitation, condition or restriction from the Board.
- (f) The initial determination procedures of this rule will not apply if the Board makes a final determination on any application during its meetings.
- (g) If the Board finds it has erred in the issuance of a license, it will give written notice by certified mail of its intent to revoke or cancel the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke or cancel the license, the applicant shall have the right to proceed according to subparagraph (e) of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-142, 63-8-112, and 63-8-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 12th day of November, 2003. (11-08)

THE PRIVATE PROBATION SERVICES COUNCIL - 1177

There will be a hearing before the Private Probation Services Council to consider the promulgation of rules pursuant to T.C.A. § 16-3-909. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in room 160 of the Davy Crocket Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 11:00 a.m. (Central Standard Time) on the 30th day of January, 2004.

Any individuals with disabilities who wish to participate in these proceedings (or 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 (or 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, Fifth Floor, Nashville, Tennessee 37243, (615) 741-0481.

For a copy of this notice of rulemaking hearing, contact: Linda R. Brackett, Administrative Director, Division of Regulatory Boards, Department of Commerce and Insurance, 500 James Robertson Parkway, Second Floor, Nashville, Tennessee 37243, (615) 741-1741.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 1177-1
APPLICATION, REGISTRATION AND FEE REQUIREMENTS**

NEW RULES

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1177-1-.01 Purpose	1177-1-.05 Application and Quarterly Report to Courts
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1177-1-.01 PURPOSE.

The purpose of the Council is to ensure that uniform professional and contract standards are practiced and maintained by private entities engaged in rendering general misdemeanor probation supervision, counseling and collection services to the courts.

Authority: T.C.A. §§16-3-902 and 16-3-909.

1177-1-.02 DEFINITIONS.

- (1) “Contracting authority” means the entity of any county, municipality or metropolitan government with authority to enter into written contracts with corporations, enterprises or entities to provide probation services.
- (2) “Council” means the Private Probation Services Council.
- (3) “Court” means any court in the State of Tennessee with the authority to sentence or otherwise assign misdemeanor offenders to a private probation provider for probation supervision.
- (4) “Private entity” means a privately owned and operated corporation, enterprise or entity which contracts to provide general probation supervision, counseling and/or collection services for persons convicted of a misdemeanor and placed on probation.
- (5) “Probationer” means any misdemeanor offender sentenced by a court of this state and assigned to a private entity for supervision, counseling, financial collections and compliance with any other court-ordered condition.
- (6) “Governmental Employee” means employees and officials of the state and its political subdivisions who are employed as law enforcement employees or officials, probation and parole employees or officials, judicial employees or officials or correctional employees or officials, including employees and officials of jails and workhouses.

Authority: T.C.A. §§16-3-903, 16-3-909 and 40-35-302(h).

1177-1-.03 REGISTRATION WITH COUNCIL.

- (1) No private entity may provide probation services in this state unless it has registered with and is approved by the Council. Every private entity proposing to provide probation services in this state shall submit an application on a form provided by the Council. The application must include all information and documents required by the Council, and must be truthful, accurate and complete. The applying entity must:
 - (a) Demonstrate the reasonable ability of the entity to furnish continuous probation service in compliance with applicable statutes, rules and uniform contract requirements;
 - (b) Describe the extent of services to be rendered by the entity;
 - (c) Demonstrate that staff qualifications meet or exceed applicable statutory and rule requirements;
 - (d) Submit sworn criminal record reports on each employee of, or volunteer for, the entity;
 - (e) Submit written policies and procedures for staff training;
 - (f) Submit proof of insurance and performance bond as required by applicable statutes and rules;
 - (g) Describe staffing levels and provide written standards of supervision, including frequency and type of contacts with probationers;
 - (h) Submit written procedures for handling court-ordered fines, fees, restitution and community service;
 - (i) Submit a written policy for handling indigent offenders;
 - (j) Describe probation revocation procedures;
 - (k) Describe reporting and record keeping procedures;
 - (l) Describe default and contract termination procedures;
 - (m) Describe procedures for the transfer of supervision of probationers from the entity to another private entity or to a public probation provider;
 - (n) Submit a schedule of the range of all probation fees and charges paid by probationers supervised by the entity, and a listing of all probation fees and charges paid by probationers outside the range;
 - (o) Provide names of employees who will supervise probationers, describe their credentials and their position with the entity.
- (2) The application fee shall be one hundred dollars (\$100.00) which must be submitted at the time of initial application and is not refundable. The renewal fee shall be one hundred dollars (\$100.00).
- (3) Upon approval, the registration fee with the Council shall be one hundred dollars (\$100.00). The private entity shall pay an additional registration fee of one hundred dollars (\$100.00) for each second or subsequent judicial district in which it provides probation supervision in Tennessee. There shall be an additional fee of one hundred (\$100.00) for any late renewal. Any entity who fails to renew within thirty (30)

days of their scheduled renewal date shall pay an additional fee of two hundred dollars (\$200.00). Failure to renew within sixty (60) days of scheduled renewal date shall be grounds for denial of renewal registration. An entity will be considered to have met the required renewal date by postmarking a complete renewal packet on or before its scheduled renewal date.

- (4) The registration shall list all branch offices on the registration. The registrant shall submit the addresses of all branch offices to the Council that open or close within thirty (30) days of the event.

Authority: T.C.A. §§ 16-3-903 and 16-3-909.

1177-1-.04 EXEMPTIONS.

The requirements set forth in rules 1177-1-.05, 1177-1-.06, 1177-2-.01, 1177-2-.02, and 1177-2-.04 that refer to T.C.A. § 40-35-302(g)(1) that include requirements for private probation supervisory services, minimum education standards, liability insurance, performance bond and conflicts of interest do not apply in counties having a population according to the 1990 federal census or any other subsequent federal census, of:

<u>Not less than</u>	<u>Nor more than</u>
4,700	4,750
7,100	7,175
27,500	27,750
31,500	31,800
31,900	32,200
34,500	34,730
40,200	40,500

Authority: T.C.A. §§ 16-3-902, 16-3-909 and 40-35-302(g)(2).

1177-1-.05 APPLICATION AND QUARTERLY REPORT TO COURTS.

- (1) A private entity that provides probation supervisory services shall comply with all of the following requirements:
 - (a) Provide an application form to all of the criminal court and general sessions court judges in each judicial district in which the entity proposes to provide misdemeanor probation services. Such application shall be on a form and in a manner specified by the criminal court and general sessions court clerk under the supervision of the judges and shall contain all of the following information:
 1. The title of the entity;
 2. Its form of business organization;
 3. The office and mailing address of the entity;
 4. The names of the employees who will provide services, their credentials and their position with the entity;
 5. A sworn statement that the credentials of all employees meet the minimum standards listed in rule 1177-1-.05 of this chapter;

6. A sworn statement that a criminal record search has been conducted on each employee of the entity prior to the hiring of said employee. If a conviction has been discovered, the name of the employee and the conviction shall be provided;
 7. A credit history of the entity including any judgments or lawsuits;
 8. A description of the services to be provided by the entity and the fee structure for the services to be provided; and
 9. Proof of current registration and approval by the Council to provide misdemeanor probation services.
 10. An affidavit filed under penalties of perjury certifying that it is complete and accurate and contains all of the information required by this subparagraph.
- (b) Once the private entity has been approved to provide services, the entity shall supply a quarterly report to the clerk of the criminal court and general sessions court in each judicial district in which the entity proposes to provide misdemeanor probation services on a quarterly basis in a form and manner specified by the clerk and containing all of the following information:
1. The case load of the entity;
 2. The number of contact hours with offenders;
 3. The services provided by the entity;
 4. The number of filings by the entity for probation revocation, and their dispositions;
 5. A financial statement including administrative costs and service costs; and
 6. Contributions, if any, to the criminal injuries compensation fund.

Authority: *T.C.A. §§16-3-909 and 40-35-302(g)(1)(A)(i), (ii), and (E), (F), (G).*

1177-1-.06 EDUCATION AND EXPERIENCE.

- (1) The following minimum education standards are required for the specified employees of a private entity that provides misdemeanor probation supervision:
 - (a) The chief executive officer shall have a bachelor's degree from an accredited university in any one (1) of the following fields: criminal justice, administration, social work or the behavioral sciences, and two (2) years experience in criminal justice or social work. Upon approval by the Council, four (4) years of professional administrative experience with an organization providing services in criminal justice or social work may be substituted for the bachelor's degree; and
 - (b) Each employee who is responsible for providing probation supervision shall have at least four (4) years of experience in a criminal justice or a social services agency providing counseling services or shall have an associate's degree or higher from an accredited college or university in any of the following fields: criminal justice, administration, social work, or the behavioral sciences.

Authority: T.C.A. §§16-3-909 and 40-35-302(g)(1)(B).

1177-1-.07 RENEWAL AND UPDATE OF REGISTRATION.

- (1) A registration as a private entity expires one (1) year after the date of its issuance and becomes invalid unless renewed.
- (2) The private entity may renew its registration by paying a renewal fee of one hundred dollars (\$100.00) within thirty (30) days prior to the expiration of its registration.
- (3) An additional fee of one hundred dollars (\$100.00) must be paid by any private entity for any entity which fails to renew within thirty (30) days after scheduled entity's renewal date as a condition of renewal. Any private entity which fails to renew at the expiration of thirty (30) days after the entity's scheduled renewal date shall pay an additional fee of two-hundred dollars (\$200.00) as a condition of renewal. Failure to renew within sixty (60) days after the scheduled renewal date shall be grounds for denial of renewal registration.
- (4) Each private entity shall notify the Council within thirty (30) days of a change in any of the information required by rule 1177-1-.03.

Authority: T.C.A. §16-3-909.

1177-1-.08 QUARTERLY PROVIDER FEE.

- (1) Each private entity shall pay a quarterly provider fee to the Council in the amount of one dollar (\$1.00) per quarter for every person reported on the case load of the entity in the quarterly report required under T.C.A. § 40-35-302(g)(1)(A)(i) and rule 0780-1-11-.05.
 - (a) For purposes of this rule, "case load" means every person assigned by a court to the private probation service provider for probation services who reports for supervision in person, telephonic or written communication or is supervised at any time during that quarter.
 - (b) The provider fee is due on May 20th, August 20th, November 20th and February 20th of each quarter.
 - (c) The provider fee will be considered timely received if the correspondence containing the reported case load of the private entity and the required fee is postmarked by the 20th of the month in which it is due.
 - (d) There will be an additional fee of five cents (\$0.05) per probationer reported for every ten (10) days by which the provider fee is late.
 - (e) The 1st of each month listed will be counted as day one of each respective quarter.
 - (f) Registration approval shall be effective at the beginning of the quarter in which the registration falls and shall continue for a period of one (1) year.
 - (g) For purposes of implementation of these rules and initial registration of private probation entities, the first quarterly provider fee installment will be calculated using the quarter immediately preceding the initial registration approval.

Authority: T.C.A. §16-3-909.

**CHAPTER 1177-2
RULES OF PROFESSIONAL CONDUCT**

NEW RULES

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1177-2-.04	Conflict of Interest	1177-2-.07	Civil Penalties

1177-2-.01 DUTIES AND DOCUMENTATION.

- (1) Any private entity providing probation supervisory services shall:
 - (a) Supervise all misdemeanor defendants sentenced by a proper order of probation to be supervised by the private entity and to assist the defendants so sentenced in completing all court ordered conditions of probation;
 - (b) Maintain documentation on all misdemeanor defendants sentenced to be supervised by the private entity. All books, records and documentation maintained by the private entity relating to work performed or money received for supervision of misdemeanor defendants so sentenced shall be maintained for a period of three (3) full years from the date of final payment or audit. Such records shall be subject to audit, both fiscal and performance, at any reasonable time and upon reasonable notice by the Council, or by the courts or the duly appointed representatives of the courts in which the private entity operates. The records shall be maintained in accordance with generally accepted accounting principles; and
 - (c) Perform any additional duties that the judges of the courts for which the private entity provides misdemeanor probation supervisory services may by local rule or court order require.

Authority: T.C.A. §§16-3-909 and 40-35-302(g)(1)(A).

1177-2-.02 LIABILITY INSURANCE AND PERFORMANCE BOND.

- (1) Any private entity providing probation supervisory services shall post each of the following:
 - (a) A liability insurance policy in an amount at least equal to the limits of governmental tort liability established in the Governmental Tort Liability Act, codified as Tenn. Code Ann., Title 29, Chapter 20, that is in effect on the date the services are provided. A liability insurance policy in an amount at least equal to the limits of governmental tort liability established in the Governmental Tort Liability Act, codified Tennessee Code Annotated, Title 29, Chapter 20, that is in effect on the date the services are provided. Nothing in this rule shall be construed as prohibiting such entity from carrying a liability insurance policy in excess of the limits of liability provided in the Government Tort Liability Act. Such policy shall be for the purpose of reimbursing an injured or aggrieved party for any damages or expenses for which the entity providing probation supervisory services is found liable by a court of competent jurisdiction;

- (b) A performance bond issued by a corporate surety in the amount of twenty-five thousand dollars (\$25,000). Such bond shall be to provide recourse to the government entity for which the private entity is providing probation supervisory services in the event of nonperformance, default, bankruptcy or failure of the entity to perform the required services; all private entities providing misdemeanor probation supervisory services in this state will use the uniform performance bond designed by the comptroller of the treasury of Tennessee;
- (c) A copy of the liability insurance policy and the performance bond shall be filed with the clerk of all courts in each county in which the entity proposes to provide such probation supervisory services.

Authority: T.C.A. §§16-3-909 and 40-35-302(g)(1)(C).

1177-2-.03 UNIFORM CONTRACTS AND STANDARDS.

- (1) The terms of any contract between a contracting authority of this state and a private probation entity to provide probation services shall state at a minimum:
 - (a) The extent of the services to be rendered by the private entity providing the probation services;
 - (b) Any requirements for staff qualifications, to include those required by statute and rules, as well as any surpassing those required by statute and rules;
 - (d) Requirements for criminal record checks of staff in accordance with the requirements of statute and rules;
 - (d) Policies and procedures for training of staff;
 - (e) Bonding of staff and liability insurance coverage;
 - (f) Staffing levels and standards for offender supervision, including frequency and type of contacts with offenders;
 - (g) Procedures for handling the collection of all court ordered fines, fees, and restitution, and for handling court ordered community service and treatment;
 - (h) Procedures for handling indigent offenders to ensure placement of such offenders despite their inability to pay;
 - (i) Circumstances under which revocation of an offender's probation may be recommended;
 - (j) Reporting and record keeping requirements; and
 - (k) Default and contract termination procedures.

Authority: T.C.A. §16-3-909.

1177-2-.04 CONFLICT OF INTEREST.

- (1) No private entity that provides probation services may give or offer to give anything of value to a governmental employee or the employee's immediate family.

- (2) No private entity that provides probation services, or employee of such entity, may loan money to or have any other personal business dealings with probationers under the entity's supervision.
- (3) No private entity that provides probation services may permit any person to supervise a probationer who is a member of such supervisor's immediate family. For purposes of this rule, "immediate family" shall mean mother, father, sibling, adult children, or maternal and paternal grandparents.
- (4) The provisions of this rule shall not be construed to amend or abridge any contract or operating agreement between any court or county government and any agency or individual presently supplying such services to such court or county government pursuant to T.C.A. § 40-35-101 et. seq.

Authority: T.C.A. §§16-3-909, 40-35-302(g)(1)(H) and (I).

1177-2-.05 CONTINUED CLEAR CRIMINAL RECORD.

- (1) Each owner, director, agent, employee or volunteer who supervises probationers shall be required to maintain a criminal record free of any felony conviction or plea of guilty or nolo contendere, or any conviction or plea of guilty or nolo contendere for misdemeanors involving moral turpitude subject to paragraph (3).
- (2) Any conviction of or plea of guilty or nolo contendere to such offense by a current owner, director, agent, employee or volunteer who supervises probationers must be reported to the Council within five (5) business days.
- (3) No private entity may permit a person having such conviction or entering such plea to supervise probationers without the prior written approval of the Council.
- (4) The private entity and potential or current employee may each submit a written statement, explaining why said person should be permitted to supervise probationers, to assist the Council in its decision.

Authority: T.C.A. §16-3-909.

1177-2-.06 REFUSAL TO RENEW, DENIAL, SUSPENSION AND REVOCATION OF APPROVAL

- (1) The Council may deny, suspend or revoke or refuse to renew the registration and approval of any entity to provide misdemeanor probation services in this state for any of the following:
 - (a) Knowingly or recklessly making any verbal or written false or misleading statement of material fact, or omitting a material fact in connection with a registration application or in connection with an inspection or investigation of the entity;
 - (b) Failure or refusal to provide Council representatives with meaningful access to the private entity's premises, staff, offender records and documents reasonably necessary to making a compliance determination;
 - (c) Changing ownership of a private probation entity in order to avoid or avert the denial, revocation or suspension of registration;
 - (d) Altering or falsifying any private probation entity records;

- (e) Failure or refusal by a private probation entity to remit required reports as outlined in these rules;
- (f) Failure or refusal to comply with any of these rules or with any law relating to the operation of a private probation entity;
- (g) Failure or refusal to comply with any order or directive issued by the Council pursuant to its authority as provided by law and rules;
- (h) Failure or refusal to pay any fees required under these rules.

Authority: T.C.A. §§16-3-909.

1177-2-.07 CIVIL PENALTIES

- (1) The Council may, in a lawful proceeding under the Uniform Administrative Procedures Act codified as Tenn. Code Ann., Title 4, Chapter 5, assess civil penalties, not to exceed one thousand dollars (\$1,000.00) per violation, for violations of statutes, rules or orders enforceable by the Council. Each day of continued violation may constitute a separate violation. In determining the amount of the penalty assessed pursuant to this rule, the Council may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violator;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (c) The economic benefits gained by the violator as a result of non-compliance; and
 - (d) The best interest of the public.
- (2) Civil penalties will be categorized as follows:
 - (a) Category I. (\$700-\$1000) Violations involving fraud, providing false information or documents, and failure to account or produce official court documents and reports. Violations involving unregistered practice.
 - (e) Category II. (\$300-\$699) Violations involving noncompliance with private entity registration requirements such as failure to submit required periodic reports and documents.
 - (f) Category III. (\$100-\$299) Violations involving private probation entity operations such as failure to maintain required records and documentation.

Authority: T.C.A. §§16-3-909 and 56-1-308.

**CHAPTER 1177-3
EDUCATION**

NEW RULES

1177-3-.01 TRAINING AND CONTINUING EDUCATION.

- (1) Each employee responsible for the supervision of probationers shall receive forty (40) hours of orientation training which must include:
 - (a) A ten (10) hour block of instruction covering:
 1. Ethics and professionalism, including gender sensitivity/sexual harassment training;
 2. Probation officer liabilities and responsibilities;
 3. Constitutional law as it relates to probation;
 4. Probation law; and
 5. Private entity operation procedures.
 - (b) A twenty (20) hour block of offender management instruction covering:
 1. Confidentiality regarding offender's identity and records;
 2. Intake procedures;
 3. Preparation and maintenance of offender's files;
 4. Interviewing and communication skills;
 5. Sentencing options;
 6. Financial collections;
 7. Community service;
 8. Alcohol and substance abuse; and
 9. Personal welfare and safety.
 - (c) A ten (10) hour block of instruction covering:
 1. General report writing techniques;
 2. Probation violations;
 3. Delinquency reports and warrants;
 4. Courtroom protocol; and

5. Testimony and revocation procedures.
- (e) Orientation training must be completed within six (6) months after the hiring of such employee. A new employee who has received the required orientation training from another registered private probation entity, or has received equivalent orientation training from a public probation provider may be exempt from the orientation training requirement.
 - (f) The Private Probation Services Council or its designee may conduct random audits of private probation entities to ensure that employees have received the required orientation training to assure compliance with this rule.
 - (g) The Council recognizes that dissimilarities in entity policies, procedures and range of services provided may result in some variation of emphasis placed on curriculum topics.
- (2) Each employee responsible for the supervision of probationers shall receive twenty (20) hours of annual in-service training (AIT) on the subjects listed above. Entity officials may decide which subjects to emphasize for in-service training. The Council may at its discretion dictate to any entity subjects that will be covered during such training. The Council may withhold the renewal registration of any entity in which any employee has not receive the required twenty (20) hours of AIT.
 - (3) Private entities may obtain training resource information from public libraries, local law enforcement agencies, local colleges and schools and from national professional associations such as the American Probation and Parole Association and the American Correctional Association.
 - (4) Each entity will maintain records of employee orientation and annual in-service training, and submit such records as part of its application for renewal of such entity's registration. If the Council finds the training curriculum or instructors to be unsatisfactory, it may require improvements in the entity's training policies.

Authority: T.C.A. §16-3-909.

The notice of rulemaking set out herein was properly filed in the Department of State on the 24th day of November, 2003. (11-14)

THE TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

There will be a hearing before the Tennessee Wildlife Resources Commission to consider the promulgation of rules, amendments of rules, or repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 10:00 a.m., local time, on the 15th day of January, 2004.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, 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 1660-1-14 RULES AND REGULATIONS FOR REFUGES, WILDLIFE MANAGEMENT AREAS, AND PUBLIC HUNTING AREAS

AMENDMENTS

The title of Chapter 1660-1-14-.03 Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, and Prentice Cooper Wildlife Management Areas is amended by adding "Percy Priest Unit I," between the words "Pea Ridge," and "and Prentice Cooper Wildlife Management Areas" so that, as amended, the title shall read, "Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit I and Prentice Cooper Wildlife Management Areas."

Authority: T.C.A. §70-1-206.

Paragraph (1) and Paragraph (3) of 1660-1-14-.03 Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, and Prentice Cooper Wildlife Management Areas is amended by adding "Percy Priest Unit I," between the words "Pea Ridge," and "and Prentice Cooper Wildlife Management Areas" so that, as amended, the rule shall read:

- (1) Unauthorized entry or presence on Catoosa, Cheatham, Chuck Swan, Forks of the River, Laurel Hill, Pea Ridge, Percy Priest Unit I, and Prentice Cooper Wildlife Management Areas is prohibited during the following times and conditions:
 - (a) Between sunset and sunrise.

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

Authority T.C.A. §70-1-206

**RULE CHAPTER 1660-2-7
RULES AND REGULATIONS GOVERNING OPERATIONS OF VESSELS**

AMENDMENT

Rule 1660-2-7-.14 Ft. Loudoun Lake is amended by adding new paragraph (7), which shall read as follows:

- (7) All vessels are prohibited from operating within the designated zone near the City of Knoxville water intake. The area is in the vicinity of Tennessee River Mile 649.4.

Authority: *T.C.A. §§70-1-206 and 69-10-209.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 18th day of November, 2003. (11-10)

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WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

**PROCLAMATION 03-19
 SPORT FISHING**

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-4-107 and 70-4-119, thereof, the Tennessee Wildlife Resources Commission proclaims the following regulations effective March 1, 2004.

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

A. ENDANGERED SPECIES

All fish identified as endangered or threatened or listed as in need of management as proclaimed by the Tennessee Wildlife Resources Commission may not be taken.

B. GAME FISH SPECIES

The season is open year-round on the following species, unless otherwise specified in this proclamation. The possession limit is twice the daily creel limit.

Only the daily creel limit may be possessed while afield. It shall also be unlawful to possess while afield any fish, which has been altered to the extent that its species and/or total body length cannot be determined. The length of a fish shall be determined with the fish laying on a flat ruler, the mouth closed, and the caudal (tail) fin lobes squeezed so as to produce the maximum length.

SPECIES	DAILY LIMIT	MINIMUM LENGTH
Rock bass.....	20	No length limit
Black bass (all species in combination).....	5	No length limit

Except as listed below and in Section V, VI, and VII.

All species from Reelfoot Lake, Reelfoot Watershed Lake #18, Gooch Unit E.....		15"
All species from Indian Boundary Lake.....	2	14"
Largemouth and smallmouth bass from Watauga Reservoir.....		12"
Largemouth bass and smallmouth bass from Cheatham, Old Hickory, and Melton Hill Reservoirs.....		14"
Largemouth and smallmouth bass from Boone, Barkley, Center Hill, Cherokee, Kentucky, Percy Priest, Tims Ford, Pickwick, and Normandy Reservoirs.....		15"

SPECIES	DAILY LIMIT	MINIMUM LENGTH
Largemouth bass from Dale Hollow, Chickamauga, Nickajack, and Watts Bar Reservoirs.....		15"
Largemouth bass from Fort Loudoun, Tellico, Parksville, and Norris Reservoirs.....		14"
Smallmouth bass from Norris Reservoir.....		18"
Smallmouth bass from Dale Hollow.....	2	16-21" Slot*
*One smallmouth bass under 16" and one smallmouth bass over 21"		
Smallmouth bass from Watts Bar (to change to 18" min. length in 2004).....	1	16"
Smallmouth bass from Chickamauga, Fort Loudoun, Tellico, Nickajack, and Gunterville Reservoirs.....	1	18"
Smallmouth bass from Douglas Reservoir, Pigeon River (from the confluence with the French Broad River to North Carolina state line), and Little Pigeon River (including East and West Prongs) to GSMNP boundary.....	1	20"
Spotted bass from Norris, Cherokee, Fort Loudoun, Boone, Ft. Patrick Henry, South Holston, Melton Hill, Tellico, John Sevier, Davy Crockett, Watauga, Chilhowee, and Calderwood Reservoir.....		15
NOTE: For this proclamation, a spotted bass is defined as any black bass that has patch of teeth on the center portion of the tongue.		
*See Special Definitions (Section XVI) for Reservoir boundary and specific area descriptions of Cherokee, Dale Hollow, Douglas, Norris, and Boone Reservoirs where size limits on smallmouth bass and largemouth bass apply.		
Sauger except as listed below.....	10	15"
From Kentucky Lake.....		14"
Walleye except as listed below.....	5	16"
Walleye from South Holston and Watauga Lakes.....		18"
Walleye from Tellico Reservoir.....		15"*
*only one walleye can be 24" or longer		
Walleye or sauger or in combination From Cherokee, Chilhowee, Douglas, Fort Loudoun, Melton Hill, and Tellico Reservoirs and their tributaries.....	10	15"
Walleye or sauger or in combination From Norris Reservoir and its tributaries (upstream to Grissom Island on the Clinch River).....	5	15"
Walleye, sauger or saugeye or in combination From Normandy Reservoir and its tributaries.....	15	15"

SPECIES	DAILY LIMIT	MINIMUM LENGTH
NOTE: For this proclamation, any walleye-sauger hybrid (saugeye) is considered the same as a sauger.		
Striped bass or Cherokee bass (striped bass x white bass hybrid), or in combination. Except as listed below:...	2	15"
On Norris Reservoir during April through October statewide regulations apply, but during November through March the creel and size limits are.....	1	24"
On Cordell Hull and Melton Hill Reservoirs.....		32-42" slot*
*only 1 striped bass per day can be over 42"		
On Cherokee Reservoir-see		
Muskellunge.....	1	30"
Crappie (white and black combined) except as listed below.....	30	10"
From private waters.....		No length limit
From Mississippi River.....		No length limit
(river proper, sloughs and oxbows, the Hatchie, Loosahatchie, Forked Deer, Wolf, and Obion River and their tributaries		
From Norris Reservoir.....	10	10"
From Dale Hollow, Center Hill, Douglas, Watauga, Cherokee, South Holston, Ft. Patrick Henry, John Sevier, Boone Reservoirs.....	15	10"
From Pickwick and Guntersville Reservoirs.....		9"
From State Park Lakes, Reelfoot Lake, Indian Boundary and Davy Crockett Reservoirs.....		No length limit
White bass.....	30	No length limit
Northern pike.....		No limits
Yellow bass.....		No limits
Bluegill and other bream (except as listed below).....		No limits
From Norris Lake.....	30	No length limit
Pickereel.....		No limits
Yellow perch.....		No limits
Trout (combined daily creel limit-all trout) except as listed below.....	7	6"*
6" size limit is for brook trout only		
Lake trout.....	2	

C. Nongame Fish Species

Non-game species except as listed below and in Section V, VI and VIII.....		No limits
Catfish (blue, channel, and flathead) from Mississippi River		34"*
*only 1 catfish per day greater than 34"		
Catfish (blue and channel) when taken from Allen Branch Pond, and Indian Boundary Lake.....	5	
Beech River Watershed Lakes.....	5	15"

SPECIES	DAILY LIMIT	MINIMUM LENGTH
Paddlefish may be harvested from April 24 to May 31, noculling.....	2	No length limit
Paddlefish exception: Cherokee Reservoir, March 1 through March 31 only.....	1	30"

SECTION II. WATERS WITH CLOSED SEASONS

A. Land Between the Lakes Wildlife Management Area:

All waters open year-round, except the following:

- (a) Farm ponds – Open to fishing except those ponds posted as closed.
- (b) Bards Lake – Trotlines and limb lines prohibited. Jugs permitted from October 1 through March 21 with a limit of 10 per person.

B. Catoosa Wildlife Management Area

All streams and ponds are open from April 1 through December 31, except on dates of managed big game and turkey hunts.

C. Woods Reservoir: See Proclamation 74-17 for areas closed to fishing

D. Buffalo Creek (Grainger County): Closed to all fishing and minnow seining from the mill dam upstream.

E. Doakes Pond (Norris Reservoir) – That portion of Norris Reservoir known as Doakes Pond (a subimpoundment), located adjacent to Highway 63 approximately 9 miles NE of Lafollette, is closed to fishing.

F. South Holston Reservoir: Closed to trout fishing December 1 through the last day of February.

G. Center Hill Lake and Tributaries – Closed to taking or possessing of paddlefish.

H. Clear Creek (tributary to the Clinch River, Anderson County) – closed to all fishing including minnow seining from Highway 441 upstream to the second dam (adjacent to the City of Norris Water Tower), as posted, from December 1 through March 31.

I. All TWRA and USFWS hatchery ponds and raceways are closed to fishing year-round.

J. South Holston Tailwater – Closed to all fishing from November 1 through January 31 in the following areas:

- (1) Hickory Tree Bridge upstream to the confluence with Bottom Creek.
- (2) Downstream point of Boy's Island (the first island downstream of Weaver Pike Bridge) upstream to the top of the first island above Webb Road Bridge.

K. On Cherokee Reservoir, a closed fishing zone will be in effect from July 15 through September 15. This zone is enclosed by lines from the boat ramp at the south end of the dam across the lake to Point 2, from Point 2 to Point 3, and from Point 3 back across the lake to the TWRA boat ramp at the north end of the dam. All

bank fishing will be open and the coves along the southeast shoreline will be open to boat fishing, but no fishing for any species will be allowed in the described zone from July 15 through September 15.

SECTION III. CHEROKEE WILDLIFE MANAGEMENT AREA – SPECIAL REGULATIONS

A. Tellico Area – Daily Permit Required

- Tellico River from its confluence with Turkey Creek upstream to the Tennessee-North Carolina state line during the period March 15 through September 15.
 - Citico Creek upstream from its confluence with Little Citico Creek during the period March 15 through September 15.
 - Green Cove Pond (See Section III-F)
1. Fishing permitted year-round. Closed on Thursday and Friday during the period March 15 through September 15 (except when national or state holidays fall on Thursday and Friday). From September 16 through March 14 fishing is allowed every day and no permit is required.
 2. Daily limit – 7 trout; possession limit – 14 trout.
 3. Fishing permitted from ½ hour before official sunrise to ½ hour after official sunset. The possession of fishing equipment and/or tackle is prohibited on stream banks except during legal fishing hours.
 4. Each fisherman permitted only one rod or pole.

B. Wild Trout Streams

Group I

- North River and tributaries
 - Bald River and tributaries
 - North Fork of Citico Creek and tributaries
 - South Fork of Citico Creek and tributaries
 - Laurel Fork and tributaries on Cherokee WMA beginning at the cable crossing ½ mile upstream from the USFS Dennis Cove Recreation Area and extending upstream
 - Gee Creek and tributaries in Polk County
 - Wolf Creek and tributaries in Polk County
 - Beaverdam Creek and tributaries from its confluence with Birch Branch downstream to Tank Hollow Road (USFS Rd. 6044)
 - Paint Creek and tributaries in Greene County-from USFS campground upstream to U.S. Forest Service Boundary line south of Highway 70 near Munday Gap.
1. Fishing permitted year-round.
 2. Daily limit – 3 trout; possession limit – 6 trout.
 3. Size limit – Rainbow and brown trout – 9 inches minimum length
Brook trout – 6 inches minimum length
 4. Only single-hook artificial lures are permitted. Use or possession of bait or multiple hook lures is prohibited. One single-hook artificial lure separated from a legal lure by a length of line (for example: a dropper fly) is also permitted.

5. Fishing permitted from ½ hour before official sunrise to ½ hour after official sunset.
6. Each fisherman permitted only one rod or pole.

Group II

- Rocky Fork Creek and tributaries on lands owned by SF Rocky Fork Holdings, Inc.
- Higgins Creek and tributaries
- Squibb Creek and tributaries
- Sarvis Cove and tributaries
- Dry Creek and tributaries (Greene County) upstream from the U.S. Forest Service boundary
- Sycamore Creek and tributaries
- Rough Ridge Creek and tributaries
- Little Jacob Creek (Sullivan County)
- Left Prong Hampton Creek (Carter County)

1. Fishing permitted year-round.
2. Daily limit – 7 trout; no more than 3 may be brook trout
Possession limit – 14 trout; no more than 6 may be brook trout
3. Size limit – Rainbow and brown trout – no minimum length limit
Brook trout – 6 inch minimum length limit
4. Only single-hook artificial lures are permitted. Use or possession of bait or multiple hook lures is prohibited. One single-hook artificial lure separated from a legal lure by a length of line (for example: a dropper fly) is also permitted.
5. Fishing permitted from ½ hour before official sunrise to ½ hour after official sunset.
6. Each fisherman permitted only one rod or pole.

C. Calderwood Reservoir

1. Appropriate licenses from Tennessee or North Carolina are legal on the entire reservoir while fishing from a boat.
2. Fishing permitted year-round.
3. Size limit – none.
4. Daily limit – 7 trout; possession limit – 14 trout
5. Trotlines and limblines prohibited.

D. Slickrock Creek

- That portion of Slickrock Creek which constitutes the boundary between the states of Tennessee and North Carolina.
1. Appropriate licenses from Tennessee or North Carolina are valid on this portion of Slickrock Creek.

2. Fishing permitted year-round.
 3. Daily limit – 4 trout; possession limit – 8 trout.
 4. Size limit – Rainbow, brown, and brook trout – 7 inches minimum.
 5. Fishing permitted ½ hour before official sunrise and ½ hour after official sunset.
 6. Only single-hook artificial lures are permitted. Use or possession of bait or multiple hook lures is prohibited. One single-hook artificial lure separated from a legal lure by a length of line (for example: a dropper fly) is also permitted.
 7. Each fisherman permitted only one rod or pole.
- E. All other streams in the Cherokee Wildlife Management Area not listed above.
1. Fishing permitted daily.
 2. Daily limit – 7 trout; possession limit – 14 trout
 3. Each fisherman permitted only one rod or pole.
- F. Green Cove Pond
- Fishing permitted year-round. Closed on Thursday and Friday (except when national or state holidays fall on Thursday or Friday) year-round.
1. Fishing limited to handicapped individuals (see Section XVI), children under age 13 and adults 65 years of age and older.
 2. Tellico-Citico daily permit required year-round.
 3. Season is open year-round.
 4. Days closed – Thursday and Friday (except open on all state and national holidays and scheduled special organized handicapped or children fishing events).
 5. Creel limit – 7 trout per day.
 6. Size limit – no restrictions.
 7. Hours open – ½ hour before sunrise to ½ hour after sunset.
 8. Bait restrictions – no minnows.

SECTION IV. TROUT FISHING – SPECIAL REGULATIONS

A. Quality Trout Fishing Areas:

The areas listed below are designated as quality trout fishing areas and have regulations as described in a., b., c., and d. below.

1. Hiwassee River: That portion of the Hiwassee River from the L&N Railroad Bridge upstream to the U.S. Forest Service's "Big Bend Parking Area".
2. Watauga River: That portion of the Watauga River from the lower end of island below Blevins Road access area downstream to the CSX Railroad bridge.
 - a. Daily limit – 2 trout; Possession limit – 2 trout.
 - b. Size limit – 14 inch minimum length.
 - c. Use or possession of any bait other than artificial lures is prohibited.
 - d. Trout less than 14 inches in length may not be possessed within quality trout fishing areas.

B. City of Gatlinburg:

1. Waters Open:

The taking of trout is permitted within the streams designated below and under the limits and during the times contained herein:

- a. General Streams
 - West Prong Little Pigeon River from Park Boundary to Gnatty Branch except those sections set aside as Children's Streams.
 - Dudley Creek from Park Boundary to West Prong Little Pigeon River, except those sections set aside as Children's Streams.
 - Roaring Fork upstream to the Park Boundary.
 - Leconte Creek from Painter Branch to West Prong Little Pigeon River.
- b. Children's Streams (may only be fished by children 12 and under)
 - Leconte Creek from Painters Branch upstream to Park Boundary.
 - West Prong Little Pigeon River from 100 yards above entrance of Herbert Holt Park downstream to Gatlinburg By-pass Bridge.
 - Dudley Creek from Highway 441 Bridge to West Prong Little Pigeon River.

2. Season and Creel Limits:

- a. Fishing permitted year-round, except on Thursday, from ½ hour before official sunrise to ½ hour after official sunset.
 - 1) From December 1 through March 31:
 - (a) Possession of any trout shall be prohibited
 - (b) All trout caught must be immediately returned to the water
 - (c) Use or possession of bait is prohibited. Use or possession of any artificial lures other than single hook artificial flies, spinners, and spoons is prohibited. The use of one dropper fly having a single hook which is separated from a legal lure by a length of line is permissible.
 - 2) From April 1 through November 30:

- (a) Daily creel limit shall be five (5) trout.
 - (b) Total possession limit shall not exceed twice the daily creel limit
 - (c) While fishing or when afield, possession of more than the daily creel limit shall be prohibited, regardless of whether the trout are fresh, stored in an ice chest, in a vehicle, or otherwise preserved.
- b. Creel Limits
 - General Streams – the creel limit is five (5) trout per day.
 - Children’s Streams - the creel limit is two (2) per day for children twelve (12) and under.
 - c. Methods: Fishing is permitted with one hand-held rod and single hook only.
 - d. Daily Fees
 - 1) In addition to the State licensing requirement, all Tennessee Residents ages 9 through 64 must possess a special Gatlinburg daily permit. The permit fee is \$2.00; provided that a non-resident may purchase a 1-day all inclusive permit, in lieu of the normal license/permit combination for a total fee of \$10.00. Non-residents under the age of 9 are exempt from the Gatlinburg daily permit.
- C. Dale Hollow Reservoir
- 1. April 1- October 31 – Daily creel limit – 7 trout
No more than 2 may be lake trout – no size limit
 - 2. November 1 – March 31 – Daily creel limit – 2 trout
Minimum size limit – 22 inches
- D. Horse Creek (Greene County)
- That portion from the U.S. Forest Service boundary line upstream to the junction of Squibb Creek.
Creel limit: 7 per day except from May 1 – September 30, when the limit is 2 per day.
- E. South Fork of the Holston River
- From the South Holston Dam to Highway 37 Bridge at Bluff City
— 16-22 inch slot (protected length range) – 7 trout, only 1 of which can be over 22 inches.
- F. Delayed Harvest Areas: In the areas listed below, the harvest or possession of trout will be prohibited during the catch-and-release season. During the catch-and-release season, only artificial lures are permitted and the use or possession of bait is prohibited.
- 1. Paint Creek – Paint Creek Campground downstream to mouth at French Broad River.
Catch-and-release season – October 1 through the last day of February.
 - 2. Tellico River – Mouth of Turkey Creek downstream to the Oosterneck Creek Recreation Area.
Catch-and-release season will be from October 1 through March 14.

- G Big Creek, Goforth Creek, Sheeds Creek, Spring Creek, and Sylco Creek and their tributaries in Polk County.
 - Closed to fishing on Fridays from March 1 to July 1 (except state and national holidays)
 - Only a single hook lure or a baited single hook is allowed. Use or possession of multiple hook lures or bait is prohibited.
 - Fishing permitted ½ hour before official sunrise to ½ hour after official sunset.
 - The possession of fishing equipment or tackle is prohibited on stream banks except during legal fishing hours.

- H Hiwassee River from Apalachia Powerhouse to Patty Bridge – 14 inch minimum length limit for brown trout, 2 fish daily limit. Does not affect current quality trout fishing area regulations.

- I Caney Fork River and its tributaries from Center Hill Dam to Cumberland River – 18 inch minimum length limit for brown trout, 2 fish daily limit.

SECTION V. WILDLIFE AGENCY LAKES AND WILDLIFE MANAGEMENT AREAS

- A. Lakes in the Wildlife Agency Lakes Management System are: Coy Gaither, Bedford, Browns Creek, Carroll, Davy Crockett, Humboldt, Garrett, Gibson County, Graham, Herb Parsons, Laurel Hill, Maples Creek, Marrowbone, VFW, Whiteville, Williamsport, Glenn Springs, and Reelfoot-Indian Creek Watershed Lakes.

- B. Seasons, Creel Limits, Size Limits and Hours of Operation
 - 1. Unless noted in Section II, Wildlife Agency Lakes are open year-round. Lakes will be open ½ hour before official sunrise to ½ hour after official sunset. Only authorized personnel may be on Agency Lake property during closed hours, except that Garrett lake is open 24 hours.

2. Creel and Size Limits:

Statewide limits apply except as listed below:

	DAILY LIMIT	MINIMUM LENGTH
Catfish (blue and channel combined).....	5	
from Bedford, Laurel Hill, Williamsport Lakes.....	5	14"
Black bass (all species)		
from Gibson County	1	18"
from Williamsport Lakes.....	1	20"
from Glenn Springs, Marrowbone, Bedford.....	5	14-18" slot*
*only 1 bass per day greater than 18"..		
from Lake Graham, Herb Parsons, Laurel Hill.....	10	14-18" slot
*only 1 bass per day greater than 18"..		
from Davy Crockett Lake.....	10	
from Browns Creek Lake.....	5	16-21" slot*
*only 1 bass per day greater than 21"		
Bluegill and redear sunfish (combined):		

- | | DAILY
LIMIT | MINIMUM
LENGTH |
|--|----------------|-------------------|
| from Laurel Hill, Bedford, Gibson County,
Glenn Springs, Williamsport Lakes... | 20 | |
| C. Williamsport Lakes:
Whipporwill Lake is “youth fishing” only. Only youths 16 and under and an accompanying adult may fish. | | |
| D. Laurel Hill Lake: The embayment above the road that lies between the concession building and the campground is a “youth fishing” only fishing area. Youths 16 and under may fish. | | |
| E. Methods for Wildlife Agency Lakes: | | |
| 1. Except for jug fishing as listed below, only rods and reels, poles, and hand-held lines may be used. | | |
| 2. Jug fishing will be permitted daily from April 1 through September 30 except Saturday, Sunday, Memorial Day, Independence Day, and Labor Day, and daily from October 1 through March 31. Jugs are limited to ten (10) per boat. Jugs must be marked with the owner’s name and address. | | |
| F. Bridgestone/Firestone Centennial Wilderness WMA Ponds are designated as “youth fishing” ponds. Fishing is permitted for youths 16 years of age or younger who are accompanied by a non-fishing adult (18 years of age or older). Youths are limited to using one (1) pole or rod while fishing. The ponds will be open on Tuesdays, Thursdays, and Saturdays only, fishing during daylight hours only, beginning with Tennessee’s Free Fishing Day through Labor Day. | | |
| Daily creel limits: | | |
| Bluegill – 10 | | |
| Channel catfish – 5 | | |
| Largemouth bass – 0 (catch and release only) | | |
| G. Egret and Heron Ponds at Williamsport, and the nursery ponds at Laurel Hill Lake are closed to fishing. | | |

SECTION VI. DEPARTMENT OF ENVIRONMENT AND CONSERVATION MANAGED LAKES

Statewide fishing regulations apply on lakes managed by the Tennessee Department of Environment and Conservation except as listed below:

- Black bass from the following lakes must be a minimum of 15”:
- Falling Water (Burgess Falls) Lake, Burgess Falls Natural Area
 - Lake Lajoie, Chickasaw State Park
 - Lake Placid, Chickasaw State Park
 - Byrd Lake, Cumberland Mountain State Park
 - Lake Lindsey, David Crockett State Park
 - Fall Creek Lake, Fall Creek Falls State Park
 - Sullivan’s Pond, Ft. Pillow State Historic Area
 - Indian Mt. “B” Lake, Indian Mountain State Park
 - Acorn Lake, Montgomery Bell State Park
 - Creech Hollow Lake, Montgomery Bell State Park
 - Kelly (Standing Stone) Lake, Standing Stone State Park

Black bass from:

- Big Ridge Lake, Big Ridge State Park, must be a minimum of 14"
- Poplar Tree Lake, Meeman-Shelby Forest State Park, 14"-18" PLR (slot limit)
- Travis McNatt Lake, Big Hill Pond State Park, daily creel limit of 10 bass (no size limit)

Black bass fishing on the following lakes is restricted to catch-and-release only; i.e., all black bass caught must be immediately released unharmed:

- Lake Woodhaven, Montgomery Bell State Park

Channel or blue catfish or in combination:

- Daily creel limit of 5

Crappie (white and black combined):

- Daily creel limit of 30
- No minimum size limit

Bluegill and redear sunfish in combination:

- Poplar Tree Lake, Meeman-Shelby Forest State Park – Daily creel limit of 20 fish

SECTION VII. SPECIAL REGULATIONS ON LAKES CONTROLLED BY NON-STATE GOVERNMENTAL AGENCIES

- A. Casper Lake (Shelby County) – the minimum size limit on black bass is 16" and the daily creel limit is 2.
- B. New Lake (Lewisburg) – Black bass: Creel limit – 5; minimum length – 13". No minimum length limit on crappie. Open ½ hour before official sunrise to ½ hour after official sunset. Only rods and reels and cane poles are permitted.

SECTION VIII. MINNOWS

- A. The catching of minnows for the purpose of sale is prohibited in Cannon, Lincoln, Macon, Moore, Smith, Sumner, and Trousdale counties. The possession limit for minnows taken from streams in the above counties is 150 in Cannon, Macon, Smith, Sumner, and Trousdale; 250 in Lincoln and Moore. It shall be unlawful to sell, take for sale, or offer for sale hornyhead minnows (stonerollers) in Carter, Unicoi, Washington, Johnson, Sullivan, and Morgan Counties.
- B. Minnow traps and seines as defined below may be used to catch minnows subject to all laws and regulations governing the catching of minnows.
 1. A minnow trap is hereby defined as a device used for the purpose of catching minnows. The mouth opening or openings shall not exceed one and one-half (1 ½") inches in diameter.
 2. A minnow seine is hereby defined as a net having a mesh size no greater than three-eighths (3/8) of an inch on the square, and no greater than ten (10) feet in length.

SECTION IX. TURTLES**A. Species, Creel and Size Limits, and Seasons**

1. Only the Common Snapping Turtle – *Chelydra serpentina serpentina* – may be legally taken.
2. All turtles listed as endangered or threatened or listed as “In Need of Management” as proclaimed by the Tennessee Wildlife Resources Commission may not be taken, and include:
 - Bog Turtle – *Clemmys muhlenbergi*
 - Alligator Snapping Turtle – *Macrochelys temminckii*
 - Cumberland Slide – *Trachemys (Pseudemys) scripta troosti*
3. The season is open year-round.
4. The daily limit is 5. The possession limit is twice the daily creel limit. Only the daily creel limit may be possessed while afield.
5. The minimum legal length for the common snapping turtle is 12 inches. For purposes of this proclamation, the length of a turtle is determined by measuring the carapace (upper shell) from front to back.
6. Turtles may be taken by all legal sport fishing methods except archery and spear guns.

Additionally, sport fishermen may take turtles by the use of up to three hoop nets having a minimum mesh size of three-inches (3”) on the square in Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Houston, Humphreys, Lake, Lauderdale, McNairy, Madison, Obion, Perry, Shelby, Stewart, Tipton, and Weakley counties. Each net must be marked with the name and address of the owner. Each net must be set so that a portion of the catch area is above the water.

7. It shall be unlawful to possess while afield any turtle which has been altered to the extent that its species and/or length cannot be determined.
8. At the Reelfoot Wildlife Management Area, all sizes and species of turtles except box turtles and those in Item 2. above may be taken year-round with a daily limit of 5 by legal sport fishing methods.

SECTION X. GIGGING

- A. Gigging: The taking of fish by means of a hand-held pole or spear with a tip consisting of two or more sharpened and barbed points.
- B. Season open year-round except as noted below.
- C. Waters Open: All waters not closed in Paragraph D. below or elsewhere in this proclamation.
- D. Waters Closed:
 1. All streams in the following counties closed year-round:

— Bedford	— Lawrence	— Maury
— Giles	— Lewis	— Wayne
— Hickman	— Marshall	

2. East Fork Obey River and tributaries closed January 1 through April 30.
 3. Norris Reservoir between River Mile 32 (Point 15) and Highway 25E Bridge on the Powell River Arm and between River Mile 137 (Point 31), and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30.
 4. Watauga Reservoir Tributaries – Closed from December 1 through May 31. The Elk River in Carter County from the Highway 321 Bridge downstream to RM3.0 (Point 11) on the Elk River Arm of Watauga Reservoir , Doe Creek (Old Cabin Private Road downstream to Roan Creek), Roan Creek (Mountain Lake Estates Bridge downstream to Doe Creek), and Watauga River (NC line downstream to Dry Hill Road Bridge).
- E. Species which may be taken and creel limits:
1. Non-game species – See Section I.C.

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

- A. Season open year-round except as noted below.
- B. All waters open except:
1. Within 100 yards below dams except at Pickwick the closed area will extend downstream to the first moorage cell located across from the boat launching ramp. At John Sevier Steam Plant the discharge channel is also closed. Dipping and cast netting are excluded from this restriction.
 2. Those areas closed to fishing listed in Section II.
 3. All waters closed by separate proclamation.
 4. Norris Reservoir between River mile 32 (Point 15) and the highway 25E Bridge on the Powell River Arm and between River Mile 137 (Point 31) and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30. Cast netting is excluded from this restriction.
 5. Watauga Reservoir Tributaries – Closed from December 1 through May 31. The Elk River in Carter County from the Highway 321 Bridge downstream to RM3.0 (Point 11) on the Elk River Arm of Watauga Reservoir , Doe Creek (Old Cabin Private Road downstream to Roan Creek), Roan Creek (Mountain Lake Estates Bridge downstream to Doe Creek), and Watauga River (NC line downstream to Dry Hill Road Bridge). Cast netting is excluded from this restriction.
 6. Snagging prohibited year-round on the South Holston tailwater (from South Holston Dam to the headwaters of Boone Reservoir) and Center Hill Reservoir.
- C. Species which may be taken:

1. Non-game species – See Section I.C.

D. Methods Defined:

1. Grabbling: The taking of fishes with the hands.
2. Grab Hooking: The taking of fishes using one more single, double, or treble hooks fastened directly to a pole or rod in such a manner that they are not separated from pole or rod by a length of line.
3. Snagging: The taking of fishes using one or more single, double, or treble hooks which are manipulated or jerked through the water in such a manner as to impale or hook fishes.
4. Tubbing: The taking of fishes using a tub or like device which has neither top or bottom.
5. Archery: The taking of fishes using long, recurve, and compound bows using arrows with barbed points; crossbows are prohibited.
6. Spear-gun Fishing: The taking of fishes using a spear-gun.
7. Dipping: Taking of fishes using a dip net.
8. Cast Netting: The taking of fishes by throwing and retrieving a cast net having a maximum radius of 10 feet and with a mesh size (square measure) of not less than one-fourth (1/4") and not greater than one (1) inch.

SECTION XII. SLAT BASKETS

- A. A slat basket is defined as a device used for taking non-game fish only. Slat baskets may have only one outside funnel opening, and may be made of wood, plastic, or cane slats which are placed lengthwise and so constructed that there must be a minimum of four (4) openings in the catching area, each being at least 1 1/2" wide and 6" long.
- B. Slat baskets as defined above and properly tagged shall be legal in all public waters except TWRA Managed Lakes.
- C. Season open year-round.
- D. Only non-game fish may be taken. See Section I.C.
- E. Only one basket tag will be issued to an individual.
- F. Possession or use of more than one slat basket is prohibited.

SECTION XIII. TROT LINES, LIMBLINES AND JUGS

- A. Season open year-round except as noted in Section II and Section V.
- B. All waters open except as follows:

1. Sport fishing trotlines, limblines, and jugs prohibited within 1,000 yards below any TVA or Corps of Engineers dam.
 2. Allen Branch Pond, Indian Boundary Lake, and Chilhowee (McKamy Pond) in Cherokee Wildlife Management Area closed to jug fishing and trotlines. Indian Boundary Lake is also closed to limblines.
 3. Trotlines prohibited in the Beech River Watershed Development Authority lakes, in the New Johnsonville Steamplant Harbor, and within 50 yards of the Danville Railroad Bridge dikes.
 4. Bards Lake on Land Between the Lakes closed to trotlines and limblines.
 5. Trotlines, limblines, and jugs prohibited on Norris Reservoir between River Mile 32 (Point 15) and the Highway 25E Bridge on the Powell River Arm between River Mile 137 (Point 31) and the Highway 25E Bridge on the Clinch River Arm from January 1 through April 30.
- C. Methods Defined:
1. Trotline: A main line with drop lines to which single hooks are attached and baited in order to catch fish. Such drops must not be closer than 24 inches.
 2. Limblining: The use of no more than one hook on a single line suspended from a tree or shrub limb, or from a pole imbedded in or braced on the bank, with a maximum of 25 limblines per licensed angler.
 3. Jug Fishing: The use of a hook connected by a length of line to a floating buoy (jug).
- D. All species may be taken.
- E. Creel limit on game fish same as statewide; non-game species – no limit (except that no paddlefish may be harvested).
- F. Other Restrictions:
1. Sport fishing trotlines, limblines, and jugs must be tagged and/or marked with the owner's name and address. On trotlines, the tag must be placed on the line within 5 feet of the bank, if the trotline is attached to a bank. On floating trotlines the information shall be marked on the floats. In all situations, the tag must be placed within 5 feet of either end. On limblines, the tag must be affixed to the line above the water level.
 2. Sport fishing trotlines, limblines, and jugs must be run at least once each day.
 3. Sport fishermen limited to 50 jugs or blocks each except New Johnsonville Steam Plant Harbor and Bards Lake, where the limit is ten (10) jugs or blocks per sport fisherman and on Beech River Watershed Development Authority Lakes where the limit is twenty (20) jugs or blocks per boat. On Bards Lake, jugs are permitted only from October 1 through March 21.
 4. Sport fishing trotlines, limblines, and jugs not fished according to these regulations are subject to be removed by Agency personnel.

SECTION XIV. SHAD TRAWLING

- A. Season: Year-round.
- B. Waters Open – All waters except within 1,000 yards below any dam.
- C. Method Defined: The taking of threadfin or gizzard shad using a trawl having a mesh size no larger than 1 inch, a hoop diameter no larger than 48 inches, and a net length no longer than 72 inches.
- D. Shad collected cannot be sold.

SECTION XV. SPECIAL RESTRICTIONS

- A. Reelfoot Lake. During April and May, the use of gasoline engines to propel boats in selected areas of Reelfoot Lake as posted by TWRA signs is prohibited.
- B. Center Hill Reservoir
 - 1. On the upper end of Center Hill Reservoir including Caney Fork River beginning at Rock Island State Park boat launching ramp and extending upstream to Great Falls Dam, anglers are restricted to the use of one hook having a single point or one lure having no more than one hook with a single point (artificial or bait) during the period from January 1 through April 30. No more than 3 rods and reels or poles may be used.
- C. Dale Hollow Reservoir
 - 1. Compton Boat Ramp upstream to Hwy 52 bridge on the East Fork Obey River Arm, anglers are restricted to the use of one hook having a single point or one lure having no more than one hook with a single point (artificial or bait) during the period from January 1 through April 30.
 - 2. No more than 3 rods and reels or poles per boat angler and 6 rods and reels or poles per bank angler may be used.
- D. Umbrella Rig Restriction – Umbrella rigs are defined as an array of more than 3 artificial lures or baits (with or without hooks) used by a single rod and reel combination. If the hook size is 6 or larger, then only one lure or bait may have a hook and that hook must be a single hook.

SECTION XVI. SPECIAL DEFINITIONS

- A. Game Fish:
The following fish are designated as game fish:

Family – Centrarchidae

All fish in the family Centrarchidae, including those listed below and all hybrids, are designated as game fish.

Largemouth bass

Micropterus salmoides (Lacepede)

Smallmouth bass	<u>Micropterus dolomieu</u> (Lacepede)
Spotted bass	<u>Micropterus punctulatus</u> (Rafinesque)
Redeye bass	<u>Micropterus coosae</u> (Hubbs and Bailey)
White crappie	<u>Pomoxis annulris</u>
Black crappie	<u>Pomoxis nigromaculatus</u> (Lesueur)
Rock bass	<u>Ambloplites rupestris</u> (Rafinesque)
Warmouth	<u>Lepomis gulosus</u> (Cuvier)
Bluegill	<u>Lepomis macrochirus</u> (Rafinesque)
Redear sunfish	<u>Lepomis microlophus</u> (Gunther)
Longear sunfish	<u>Lepomis megalotis</u> (Rafinesque)
Green sunfish	<u>Lepomis cyanellus</u> (Rafinesque)
Flier	<u>Centrarchus macropterus</u> (Lacepede)
Redbreast sunfish	<u>Lepomis auritus</u> (Linnaeus)
Pumpkinseed	<u>Lepomis gibbosus</u> (Linnaeus)
Orangespotted sunfish	<u>Lepomis humilis</u> (Girard)
<u>Family – Percichthyidae</u>	
Striped bass	<u>Morone saxatilis</u> (Walbaum)
Cherokee bass (Striped bass- White bass hybrid)	<u>Morone chrysops</u> (Rafinesque)
Yellow bass	<u>Morone mississippiensis</u> (Jordan and Eigenmann)
<u>Family – Percidae</u>	
Walleye	<u>Stizostedion vitreum</u> (Mitchill)
Sauger	<u>Stizostedion canadense</u> (Smith)
Walleye-Sauger hybrid (Saugeye)	<u>Stizostedion</u> sp.
Yellow perch	<u>Perca flavescens</u> (Mitchill)
<u>Family – Esocidae</u>	
All fish in the family Esocidae, including those listed below and all hybrids, are designated as game fish.	
Muskellunge	<u>Esox masquinongy</u> (Mitchill)
Northern Pike	<u>Esox lucius</u> (Linnaeus)
Chain pickerel	<u>Esox niger</u> (Lesueur)
Grass pickerel	<u>Esox americanus</u> (Lesueur)
<u>Family – Salmonidae</u>	
All fish in the family Salmonidae, including those listed below and all hybrids, are designated as game fish.	
Rainbow trout	<u>Oncorhynchus mykiss</u>
Brown trout	<u>Salmo trutta</u> (Linnaeus)
Brook trout	<u>Salvelinus fontinalis</u> (Mitchill)
Lake trout	<u>Salvelinus namaycush</u> (Walbaum)
Ohrid trout	<u>Salmo letnica</u>

B. Non-Game Species:

All species except those listed as game fish and those proclaimed by the TWRC to be endangered, threatened, or in need of management.

C. Hooks Defined:

Hooks are defined as follows:

- Single hook – 1 point
- Double hook – 2 points
- Treble hook – 3 points

D. The use of rods and reels, poles, hand-held lines, and other devices and methods described in this proclamation are the only legal means of sport fishing.

E. Reservoir full pool level is the reservoir/stream boundary for harvest restrictions, unless otherwise noted.

F. Norris Reservoir:

For purpose of size restrictions on largemouth and smallmouth bass, extends upstream to the Highway 25E bridge on the Clinch River Arm and upstream to Gap Creek on the Powell River Arm.

G. Boone Reservoir:

For purpose of size restrictions on largemouth and smallmouth bass, extends upstream to the 11E Bridge at Bluff City on the South Fork Holston River Arm and upstream to the new Austin Springs Bridge on the Watauga River.

H. Cherokee Reservoir:

For purpose of size restrictions on largemouth and smallmouth bass, shall extend upstream to the John Sevier Dam.

I. Douglas Reservoir:

For purpose of size and creel restrictions on smallmouth bass and crappie, extends upstream to the ENCA dam on the Nolichucky River and to the mouth of the Pigeon River on the French Broad River.

J. Dale Hollow Reservoir:

For purpose of size and creel restrictions on smallmouth bass, extends upstream on the Wolf River arm to the South Ford Road Bridge near Sulphur Springs.

K. Handicapped – any person who is mentally impaired or physically impaired (including blindness) because of injury or disease, congenital or acquired, which permanently renders him/her so severely disabled as to be unable to move without aid of crutches or a wheelchair, or a person who has 80% permanent impairment of a hand or arm as determined by a physician using the standards outlined in the “Guide to Evaluations of Permanent Rating”, published by the AMA or other acceptable rating system.

L. Bait – any living or dead organism, or prepared substance designed to attract fish by taste or odor. For the purpose of this proclamation, bait includes, but is not limited to, fish, fish eggs, crayfish, worms, grubs, crickets, corn, cheese, bread, pork rinds, putty or paste-type products, and flavors or scents applied to or impregnated into artificial lures.

SECTION XVII. SHOOTING FISH AND TURTLES

Shooting fish and turtles with firearms is prohibited.

SECTION XVIII. SALE OF FISH AND TURTLES

It is illegal to sell or offer for sale fish and turtles taken under authority of this proclamation.

SECTION XIX. REPEAL OF PRIOR PROCLAMATIONS

This proclamation repeals Proclamation 03-01, dated January 23, 2003.

Proclamation 03-19 received and recorded this 18th day of November, 2003. (11-11)



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 November 3, 2003 and ending November 26, 2003.


RILEY C. DARNELL
Secretary of State

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