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TENNESSEE ADMINISTRATIVE REGISTER



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RILEY C. DARNELL
Secretary of State

Division of Publications
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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*.

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

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ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

Pursuant to Tennessee Code Annotated Section 4-5-224, the Tennessee Underground Storage Tank Board gives the following notice of hearing on a petition for declaratory order:

1. Petitioner's Name: Delta Environmental Consultants, Inc.

2. Petitioner's Attorney: Eric R. Heiburg
Coleman, Hull & Van Vliet PLLP

Address: 8500 Normandale Lake Boulevard, Suite 2110
Minneapolis, Minnesota 55437

Telephone number: (952) 841-0207

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

Organization Name: N/A

Address: N/A

4. Summary of the relief requested:

Petitioner requests a declaratory order from the Tennessee Underground Storage Tank Board that the cost of corrective actions performed by the petitioner should be eligible for reimbursement from the Underground Storage Tank Fund subsequent to the date the petitioner was removed from the Corrective Action Contractor list maintained by the Division of Underground Storage Tanks.

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

Tenn. Code Ann. § 68-215-11,

This statute states that the underground storage tank fund is available to the board and the commissioner for expenditures for the purposes of providing for the investigation, identification, and for the reasonable and safe cleanup, including monitoring and maintenance of petroleum sites within the state.

ANNOUNCEMENTS

Rule 1200-15-.09(11) describes the requirements for tank fund coverage of corrective action costs.

A contested case hearing has been scheduled for June 15, 2005, 9:30 a.m., 17th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243

The Notice of Hearing of Petition for Declaratory Order set out herein was properly filed in the office of the Secretary of State, Publications Division, on this the 21th day of April, 2005.

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 9.75%.

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.

Kevin P. Lavender

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 June 2005 is 8.55 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 4.55 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.

Kevin P. Lavender

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 previous month. All persons who wish to testify at the hearings or who wish to submit written statements on information for inclusion in the staff report on the rules should promptly notify Fred Standbrook, Suite G-3, War Memorial Building, Nashville, TN 37243-0059, (615) 741-3074.

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
04-03	April 8, 2005	1240 Human Services Rehabilitation Services Division Tennessee Business Enterprise	Rulemaking Hearing Rule	New Rules	<p>Chapter 1240-6-1 <i>General Rules</i> 1240-6-1-.01 Necessity and Function. 1240-6-1-.02 Definitions.</p> <p><i>Chapter 1240-6-2</i> <i>License</i> 1240-6-2-.01 Issuance 1240-6-2-.02 Displaying of License 1240-6-2-.03 Termination of License 1240-6-2-.04 Instrument of Facility Assignment</p> <p><i>Chapter 1240-6-3</i> <i>Probationary Periods</i> 1240-6-3-.01 Newly Licensed Managers 1240-6-3-.02 Disciplinary Probations</p> <p><i>Chapter 1240-6-4</i> <i>Classification and Certification</i> 1240-6-4-.01 Facility Classifications 1240-6-4-.02 Managers' Certification Requirements</p> <p><i>Chapter 1240-6-5</i> <i>Assignment of Managers</i> 1240-6-5-.03 Transfers 1240-6-5-.04 Demotions 1240-6-5-.05 Permanent Assignment Not Requiring Bids 1240-6-5-.06 Ready-For-Employment List 1240-6-5-.07 Temporary Managers</p> <p><i>Chapter 1240-6-6</i> <i>Removal of Manager</i> 1240-6-6-.01 Voluntary Withdrawal of a Manager 1240-6-6-.02 Emergency Removal of a Manager 1240-6-6-.03 Properties Not Covered by a Statutory Priority 1240-6-6-.04 Due Process for Managers Who Are Removed</p>	James L. Allan 15th Fl Citizens Plaza Bldg 400 Deaderick St Nashville TN 37248-0006 615-313-4731	June 22, 2005

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
04-03, cont.					<p><i>Chapter 1240-6-7</i> <i>Training Program</i> 1240-6-7-.01 Entry Level Training 1240-6-7-.02 Certification Training 1240-6-7-.03 Retraining for Established Managers 1240-6-7-.04 Upward Mobility 1240-6-7-.05 Statewide Managers' Meeting 1240-6-7-.06 Reimbursement 1240-6-7-.07 Post-Employment Services 1240-6-7-.08 Agency Assurances</p> <p><i>Chapter 1240-6-8</i> <i>Vending Facility Equipment</i> 1240-6-8-.01 Facility Equipment 1240-6-8-.02 Maintenance and Repair</p> <p><i>Chapter 1240-6-9</i> <i>Setting Aside of Funds</i> 1240-6-9-.01 Set-Aside Assessment 1240-6-9-.02 Purpose For Which Set-Aside Assessments May Be Used 1240-6-9-.03 Requirements For Financial Reporting</p> <p><i>Chapter 1240-6-10</i> <i>Facility Operational</i> 1240-6-10-.01 Days and Hours of Operation 1240-6-10-.02 Personal Appearance, Hygiene and Facility Cleanliness 1240-6-10-.03 Facility Merchandise 1240-6-10-.04 Standards of Performance 1240-6-10-.05 Partnering With Private Entities 1240-6-10-.06 Public Relations With Customers, Suppliers, And Property Management Officials 1240-6-10-.07 Drug-Free Environment 1240-6-10-.08 Non-Discrimination 1240-6-10-.09 Insurance Coverage 1240-6-10-.10 Taxes, Permits and Licenses 1240-6-10-.11 Record Keeping and Reporting</p> <p>Repeals Chapters 1240-6-1 through 1240-6-14</p>		
04-04	April 11, 2005	1220 TN Regulatory Authority	Rulemaking Hearing Rules	Amendment	<p><i>Chapter 1220-4-11</i> <i>Consumer Registration with the TN Do Not Call Register</i> 1220-4-11-.05 Consumer Registration</p>	J. Richard Collier TRA 460 J Robertson Pkwy Nashville TN 37243 615-741-2904	June 25, 2005

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
04-07	April 18, 2005	1340 Safety Driver Control Division	Proposed Rules		<p><i>Chapter 1340-1-4</i> <i>Tennessee Driver Improvement Program</i></p> <p>1340-1-4-.01 Purpose 1340-1-4-.02 Assignment of Point System Numerical Value 1340-1-4-.03 Schedule of Values 1340-1-4-.04 Suspension of License for Moving Violation Convictions or Contributing to the Occurrence of an Accident 1340-1-4-.05 Defensive Driving/Accident Prevention Courses 1340-1-4-.06 Suspension of License For Physical or Mental Disabilities 1340-1-4-.07 Suspension of License For Failing to Pass or Submit to Re-Examination</p>	Captain Mike Walker Safety THPD Improvement Division 1150 Foster Ave McCord Hall Nashville, TN 37249-1000 615-251-5296	August 26, 2005
04-10	April 25, 2005	0360 Fire Fighting Personnel Standards and Education	Rulemaking Hearing Rules	New Rules	<p><i>Chapter 0360-6-1</i> <i>Miscellaneous Certification Standards</i></p> <p>0360-6-1-.03 Domestic Violence Training 0360-6-1-.04 Progression 0360-6-1-.05 Reciprocity</p> <p><i>Chapter 0360-1-2</i> <i>Definitions</i></p> <p>0360-1-2-.01 Definitions</p> <p><i>Chapter 0360-2-2</i> <i>Instructor Certification</i></p> <p>0360-2-2-.01 Interim Fire Department Instructor</p> <p><i>Chapter 0360-3-1</i> <i>Classifications for Full-Time and Volunteer Fire Fighters</i></p> <p>0360-3-1-.01 Apprentice Recruit Fire Fighter 0360-3-1-.02 Apprentice Fire Fighter I/Fire Fighter I 0360-3-1-.03 Journeyman Fire Fighter/Fire Fighter II 0360-3-1-.09 Fire Officer I</p> <p><i>Chapter 0360-4-1</i> <i>Examinations</i></p> <p>0360-4-1-.05 Retesting 0360-4-1-.06 Examination Form</p> <p><i>Chapter 0360-5-1</i> <i>Revocation of Certification</i></p> <p>0360-5-1-.02 Separation from Active Fire Service</p>	Christy A. Allen Commerce and Insurance Legal Counsel 500 J Robertson Pkwy Davy Crockett Twr 5th Fl Nashville TN 37243 (615) 741-3072	July 9, 2005

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
04-10, cont.				Repeals	<p><i>Chapter 0360-6-1</i> <i>Miscellaneous Certification Standards</i> 0360-6-1-.01 Adoption by Reference</p> <p><i>Chapter 0360-7-1</i> <i>Salary Supplement</i> 0360-7-1-.01 Minimum Employment Standards Definitions 0360-7-1-.04 Entry Level Personnel 0360-7-1-.05 Requirements for In-Service Training Programs</p> <p>0360-2-2-.05 Fire Department Instructor IV 0360-3-1-.04 Incumbent Personnel 0360-3-1-.08 Fire Department Instructor IV 0360-6-1-.02 Fire Department Instructor I/Fire Officer Progression 0360-7-1-.03 Incumbent Personnel</p>		
04-12	April 28, 2005	0780 Commerce and Insurance Insurance Division	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-1-59</i> <i>Aftermarket Crash Parts Regulation</i> 0780-1-59-.01 Purpose 0780-1-59-.02 Definitions 0780-1-59-.03 Identification 0780-1-59-.04 Disclosure 0780-1-59-.05 Enforcement 0780-1-59-.06 Severability</p>	John F. Morris Staff Attorney Commerce and Insurance Davy Crockett Twr 5th Fl 500 J Robertson Pkwy Nashville TN 37243 615-741-2199	July 12, 2005
04-13	April 28, 2005	0780 Commerce and Insurance Insurance Division	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0780-1-46</i> <i>Relating to Securities Held Under Custodial Agreements and Participation by Insurance Companies in Depository Trust Companies and Federal Reserve Book Entry Systems</i> 0780-1-46-.01 Purpose 0780-1-46-.02 Definitions 0780-1-46-.03 Permissible methods of holding Securities 0780-1-46-.04 Securities Held on Deposit with the Commissioner</p> <p>Appendix A Custodial Agreement Appendix B Custodial Affidavit A Appendix C Custodian Affidavit B Appendix D Custodian Affidavit C</p>	John F. Morris Staff Attorney Commerce and Insurance Davy Crockett Twr 5th Fl 500 J Robertson Pkwy Nashville TN 37243 615-741-2199	July 12, 2005

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
04-15	April 29, 2005	0620 Finance and Administration	Proposed Rules	Amendments	<i>Chapter 0620-3-8 Contract Management and Subrecipient Monitoring 0620-3-8-.05</i>	Mark Cheprack Finance and Administration Suite 2100 312 8th Ave N TN Twr Nashville Tennessee 37243 (615) 532-9618	August 26, 2005
04-17	April 29, 2005	0620 Finance and Administration Bureau of TennCare	Public Necessity Rules	Amendments	<i>Chapter 1200-13-14 TennCare Standard 1200-13-14-.02 Eligibility</i>	George Woods Bureau of TennCare 729 Church St Nashville TN 37247-6501 741-0145	April 29, 2005 through Oct 11, 2005
04-18	April 29, 2005	0620 Finance and Administration Bureau of TennCare	Public Necessity Rules	Amendments	<i>Chapter 1200-13-13 TennCare Medicaid 1200-13-13-.02 Eligibility 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment</i>	George Woods Bureau of TennCare 729 Church St Nashville TN 37247-6501 741-0145	April 29, 2005 through Oct 11, 2005

ANNOUNCEMENTS

TENNESSEE HEALTH SERVICES AND DEVELOPMENT AGENCY - 0720

NOTICE OF BEGINNING OF REVIEW CYCLE

Visit the Tennessee Health Services and Development Agency web site at: <http://www.state.tn.us/hsda/> for the latest Notice of Beginning of Review Cycle.

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

FOR TEXT OF EMERGENCY RULE SEE T.A.R. CITED

- 1240 - Department of Human Services - Child Support Services Division - Emergency rules pertaining to the calculation of additional expenses in split parenting cases and cases where parenting time is divided on a 50/50 basis, chapter 1240-2-4 Child Support Guidelines, 4 T.A.R., (April 2005) - Filed March 3, 2005; effective through August 15, 2005.
- 1360 - Department of State - Division of Charitable Solicitation - Charitable gaming Division - Emergency rules covering procedures for filing applications, amendments and financial accounting reports for organizations exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (IRC) who have been authorized by the Tennessee General Assembly to operate charitable gaming events, chapter 1360-3-2 Procedures for Operating Gaming Events, 4 T.A.R., (April 2005) - Filed March 4, 2005; effective through August 16, 2005.

PROPOSED RULES

THE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620

CHAPTER 0620-3-8 CONTRACT MANAGEMENT AND SUBRECIPIENT MONITORING

Presented herein are proposed amendments of the Department of Finance and Administration submitted pursuant to T.C.A. Section 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Finance and Administration, Office of the General Counsel, Suite 2100, William R. Snodgrass Tennessee Tower located at 312 8th Avenue North, Nashville, Tennessee 37243 and in the Department of State, 8th floor, William R. Snodgrass Tennessee Tower, 312 8th 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 the proposed amendments, contact: April Woodruff, Office of the General Counsel, Department of Finance and Administration Suite 2100, William R. Snodgrass Tennessee Tower, 312 8th Avenue North, Nashville, Tennessee 37243, (615) 741-0320.

The text of the proposed amendments is as follows:

AMENDMENTS

Paragraph (3) of Rule 0620-3-8-.05 is amended by deleting it in its entirety and replacing it with the following language so that amended paragraph (3) will read

- (3) Plan Required. Each state agency subject to these rules shall develop and obtain Department of Finance and Administration approval of an annual subrecipient monitoring plan that identifies all of its subrecipients and all subrecipients to be monitored. The deadline for this plan is detailed in Department of Finance and Administration Policy 22.

Paragraph (4) of Rule 0620-3-8-.05 is deleted.

Paragraph (5) of Rule 0620-3-8-.05 is deleted.

Authority: *T.C.A. Section 4-5-202; T.C.A. Section 12-4-109.*

The proposed rules set out herein were properly filed in the Department of State on the 29th day of April, 2005, and pursuant to the instructions set out above, and in the absence of the filing of a petition for a rulemaking hearing, will become effective on the 26th day of August, 2005. (04-15)

PROPOSED RULES

**THE TENNESSEE DEPARTMENT OF SAFETY - 1340
DRIVER CONTROL DIVISION**

**CHAPTER 1340-1-4
TENNESSEE DRIVER IMPROVEMENT PROGRAM**

Presented herein are proposed s of the Department of Safety submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Safety to promulgate these s without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the Tennessee Administrative Register in which the proposed s are published. Such petition to be effective must be filed with the Department of Safety Legal Division, 1150 Foster Ave. Nashville, Tennessee 37249-1000, and in the Department of State, Publication Division, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the s, or submitted by a municipality which will be affected by the s, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of these proposed s, contact: Deborah Martin, Staff Attorney, Tennessee Department of Safety Legal Division, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5296.

The text of the proposed s is as follows:

AMENDMENT

Rule 1340-1-4-.01 Purpose is amended by deleting the rule in its entirety and substituting a new rule, so that, as amended, the rule shall read:

- (1) To establish a uniform system for conducting a Driver Improvement Program whereby a driver may, after notice and the opportunity for a hearing to contest the records of the Department of Safety, have the driver's driving privileges suspended when the records of the Department indicate that the driver has been convicted with such frequency for moving traffic violations or contributing to the occurrence of accidents as to indicate a disrespect for traffic laws or that the driver is accident prone, or when the Department has reason to believe that the driver is unable to safely operate a motor vehicle due to physical or mental disability.

Authority: T.C.A. §55-50-505.

Paragraph (3) of Rule 1340-1-4-.02 Assignment of Point System Numerical Value is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (3) Upon receipt of a moving traffic conviction notice from any court or the receipt by the Department of a traffic crash report indicating a driver contributed to the occurrence of the crash, the Department shall charge points the driver's record as set out herein. Convictions of moving traffic violations which occurred more than two (2) years prior to the Department's receipt of such report or notice shall not be used within the Driver Improvement Program.

Authority: T.C.A. §55-50-505.

PROPOSED RULES

Rule 1340-1-4-.03 Schedule of Values is amended by deleting the title and the language following the title in their entirety, and substituting a new title, so that, as amended, the title shall read:

1340-1-4-.03 SCHEDULE OF POINTS

Authority: T.C.A. §55-50-505.

Paragraph (1) of newly renamed Rule 1340-1-4-.03 Schedule of Points is amended by deleting paragraph (1) in its entirety, and substituting a new paragraph, so that, as amended, the paragraph shall read:

(1) Moving Traffic Violations	Points
(a) Tickets and court abstracts where speed not indicated on source documents	3
(b) Speeding 1 through 5 m.p.h. in excess of speed zone	1
(c) Speeding 6 through 15 m.p.h. in excess of speed zone	3
(d) Speeding 16 through 25 m.p.h. in excess of speed zone	4
(e) Speeding 26 through 35 m.p.h. in excess of speed zone	5
(f) Speeding 36 through 45 m.p.h. in excess of speed zone	6
(g) Speeding 46 and above in excess of speed zone	8
(h) Reckless driving	6
(i) Signs and control devices - failing to obey traffic instructions	4
(j) Improper passing - passing where prohibited	4
(k) Wrong way, side or direction	4
(l) Following improperly	3
(m) Failure to yield the right-of-way	4
(n) Making improper turn	4
(o) Failure to signal intention to change vehicle direction	3
(p) Passing school, church or youth bus taking on or discharging passengers	8
(q) Following emergency vehicles unlawfully	3
(r) Speed less than posted minimum	3

PROPOSED RULES

(s) Operating without being licensed or certificated or without license or certificate required for type of vehicle operated	3
(t) Operating without being licensed or certificated or without license or certificate required for type of vehicle operated, under suspension, revocation or cancellation	8
(u) Operating without license or certificate in possession	2
(v) Careless or negligent driving	4
(w) Violation of driver license or certificate restrictions	6
(x) Reckless endangerment by vehicle - misdemeanor	8
(y) Miscellaneous traffic violations-failing to maintain control, improper control, etc., or any offense involving the operation of a motor vehicle not herein specified	3
(z) Leaving scene of an accident (property damage only)	5
(aa) Failure to report an accident (property damage only)	4
(bb) Failure to yield to emergency vehicles	6
(cc) Failure to stop at railroad crossing	6
(dd) Speeding in construction zone – non commercial	
1. Tickets and court abstracts where speed not indicated	4
2. Speeding 1 through 5 m.p.h. in excess of posted speed	2
3. Speeding 6 through 15 m.p.h. in excess of posted speed	4
4. Speeding 16 through 25 m.p.h. in excess of posted speed	5
5. Speeding 26 through 35 m.p.h. in excess of posted speed	6
6. Speeding 36 and above in excess of posted speed	8

Authority: T.C.A. §55-50-505.

Newly renamed Rule 1340-1-4-.03 Schedule of Points is amended by deleting paragraph (5) in its entirety and substituting in its place a new paragraph, so that, as amended, the new paragraph shall read:

PROPOSED RULES

- (5) Child endangerment (misdemeanor) 8

Authority: T.C.A. §55-50-505.

Newly renamed Rule 1340-1-4-.03 Schedule of Points is amended by adding new paragraphs (6) and (7), so that, as amended, the rule shall read:

- (6) The following points are for Commercial Vehicles:
- (a) Speeding in a commercial vehicle, speed not indicated 4
 - (b) Speeding in a commercial vehicle, 1-5 m.p.h. in excess of posted speed zone 2
 - (c) Speeding in a commercial vehicle, 6-14 m.p.h. in excess of posted speed zone 4
 - (d) Speeding in a commercial vehicle, 15-25 m.p.h. in excess of posted speed zone, excessive speeding 5
 - (e) Speeding in a commercial vehicle, 26-35 m.p.h. in excess of posted speed zone, excessive speeding 6
 - (f) Speeding in a commercial vehicle, 36-45 m.p.h. in excess of posted speed zone, excessive speeding 7
 - (g) Speeding in a commercial vehicle, 46 m.p.h. and above in excess of posted speed zone, excessive speeding 8
 - (h) Excessive speeding (15 m.p.h. or more above posted speed limit in a commercial vehicle), speed not indicated on court document, but on citation 6
 - (i) Reckless driving 7
 - (j) Improper passing 4
 - (k) Improper or erratic lane change 5
 - (l) Following Improperly 4
 - (m) Careless or Negligent Driving 5
 - (n) Failure to Obey Traffic Instructions 4
 - (o) Wrong Way, Side or Direction 4
 - (p) Failure to yield right of way 4
 - (q) Making improper turn 4

PROPOSED RULES

(r)	Failure to signal direction	3
(s)	Passing stopped school, church or youth bus taking on or discharging passengers	6
(t)	Following emergency vehicle unlawfully	3
(u)	Speed less than posted minimum	4
(v)	Miscellaneous traffic violations	3
(w)	Failure to yield to emergency vehicles	6
(x)	Failure to stop at railroad crossing	8
(7)	The following points are for offenses committed while driving commercial vehicles in a construction zone or while hauling hazardous material:	
(a)	Speeding in a commercial vehicle, speed not indicated	5
(b)	Speeding in a commercial vehicle, 1-5 m.p.h. in excess of posted speed zone	3
(c)	Speeding in a commercial vehicle, 6-14 m.p.h. in excess of posted speed zone	5
(d)	Speeding in a commercial vehicle, 15-25 m.p.h. in excess of posted speed zone, excessive speeding	6
(e)	Speeding in a commercial vehicle, 26-35 m.p.h. in excess of posted speed zone, excessive speeding	7
(f)	Speeding in a commercial vehicle, 36-45 m.p.h. in excess of posted speed zone, excessive speeding	8
(g)	Speeding in a commercial vehicle, 46 m.p.h. and above in excess of posted speed zone, excessive speeding	9
(h)	Excessive speeding (15 m.p.h. or more above posted speed limit in a commercial vehicle), speed not indicated on court document, but on citation	7
(i)	Reckless driving	8
(j)	Improper passing	5
(k)	Improper or erratic lane change	6
(l)	Following Improperly	5
(m)	Careless or Negligent Driving	6

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(n) Failure to Obey Traffic Instructions	5
(o) Wrong Way, Side or Direction	5
(p) Failure to yield right of way	5
(q) Making improper turn	5
(r) Failure to signal direction	4
(s) Passing stopped school, church or youth bus taking or discharging passengers	8
(t) Following emergency vehicle unlawfully	3
(u) Speed less than posted minimum	5
(v) Miscellaneous traffic violations	4

Authority: T.C.A. §55-50-505.

Rule 1340-1-4-.04 Suspension of License for Moving Violation Convictions or Contributing to the Occurrence of an Accident is amended by deleting the title and substituting a new title so that as amended, the title shall read:

1340-1-4-.04 REVOCATION OR SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR MOVING VIOLATION CONVICTIONS OR CONTRIBUTING TO THE OCCURRENCE OF A TRAFFIC CRASH

Authority: T.C.A. §§ 55-12-103, 55-12-105 and 55-12-129, 55-50-202, 55-50-502 and 55-50-505.

Paragraph (1) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (1) (Paragraphs 1-8 of this Rule shall apply only to drivers who are eighteen (18) years of age or older on the event date of the crash or violation.) An advisory letter shall be mailed to each driver who accumulates six (6) or more, but fewer than twelve (12) points within a one (1) year period. The letter shall inform the driver of the point system and advise the driver of the points that the driver has accumulated and the consequences of accumulating more points. A driver shall receive only one (1) advisory letter of caution within a five (5) year period.

Authority: T.C.A. §55-50-505.

Paragraph (2) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

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- (2) When a driver has accumulated twelve (12) or more points within a one (1) year period, the Department shall issue a notice of proposed suspension stating the grounds for such suspension and that the driver shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice.

Authority: T.C.A. §55-50-505.

Paragraph (4) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the words “driver improvement” and substituting “Driver Improvement Program”, so that, as amended, the paragraph shall read:

- (4) Failure to attend a hearing pursuant to this chapter shall result in a six (6) month suspension unless the driver is currently undergoing, or has previously undergone within a five (5) year period, Driver Improvement Program suspension action, in which case the suspension period shall be for twelve (12) months.

Authority: T.C.A. §55-50-505.

Paragraph (6) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting paragraph (6) in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (6) Calculation of points - Each time a crash or violation is posted to the driver's record, the computer shall scan back for a period of twenty-four (24) months from the posted date to determine whether the driver has accumulated twelve (12) or more points within a twelve (12) month period to warrant a proposed suspension notice.
 - (a) Any crash or violation with an event date prior to the date of the completion of the defensive driving course shall be posted as points toward the twelve (12) points calculated as set forth in paragraph (6).
 - (b) Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be calculated as a violation of probation and may be grounds for revocation of probation.

Authority: T.C.A. §55-50-505.

Subparagraph (b) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting subparagraph (b) in its entirety and substituting a new subparagraph, so that, as amended, the paragraph shall read:

- (b) A notice of proposed suspension shall be issued to first offender drivers who accumulate between twelve (12) and twenty (20) points within a twelve (12) month period as calculated pursuant to Paragraph (6). The twelve (12) month period shall be calculated retroactively from the date each crash or violation is posted in accordance with Paragraph (6). The notice shall advise the driver that the driver has accumulated sufficient points in a twelve

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(12) month period to be placed in the Driver Improvement Program; that the driver shall be required to appear at an administrative hearing to contest the proposed suspension of six (6) months; and that the driver is eligible as a first offender to elect to waive the right to a hearing and may be assigned directly into a defensive driving course in lieu of suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice.

Authority: T.C.A. §55-50-505.

Subparagraph (c) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting subparagraph (c) in its entirety and substituting a new subparagraph, so that, as amended, the paragraph shall read:

- (c) Drivers entering the Driver Improvement Program for the first time with more than twelve (12) accumulated points, but fewer than twenty-one (21) points, who choose to be assigned directly into a defensive driving course in lieu of a six (6) month suspension will expressly waive their right to an administrative hearing by making this selection. They shall be notified in writing of their options and the consequences of choosing to be assigned directly into a defensive driving course. They shall also be notified in writing of the location, address and telephone number of approved defensive driving courses, and instructions for compliance.

Authority: T.C.A. §55-50-505.

Subparagraph (d) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting subparagraph (d) in its entirety and substituting a new subparagraph, so that, as amended, the paragraph shall read:

- (d) First offender drivers who accumulate more than twenty (20) points within a twelve (12) month period shall not be offered the option to waive their right to an administrative hearing and to be assigned directly into a defensive driving course. The notice shall advise the driver that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.

Authority: T.C.A. §55-50-505.

Subparagraph (e) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash the first sentence is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the paragraph shall read:

- (e) Following completion of the defensive driving course and notification to the Department of such completion, the driver shall be placed on probation for a period of twelve (12) months.

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Authority: T.C.A. §55-50-505.

A new subparagraph (f) is inserted in Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash and the subsequent subparagraphs are relettered accordingly:

- (f) A driver has ninety (90) days from the date of the letter assigning the driver to attend a defensive driving course or ninety (90) days from the date of the driver's hearing to attend a defensive driving course. Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) months. A driver may request an extension of time to attend the defensive driving course, provided that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.

Authority: T.C.A. §55-50-505.

A new subparagraph (g) is inserted in Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash and the subsequent subparagraphs are re-lettered accordingly:

- (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) months.

Authority: T.C.A. §55-50-505.

Newly lettered subparagraph (h) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (h) Violation of Probation—The first crash or violation with an event date as determined in paragraph (6) posted to the record of a driver on probation may not trigger any departmental action for violation of probation and a warning letter may be sent to the driver that advises the driver that a crash or violation has been posted to the record of the driver during the probationary period and any further crash or violation within the probationary period shall be a violation of probation. If a second crash or violation with an event date as determined in paragraph (6) is posted to the record of a driver on probation, the notice shall advise the driver that a crash or violation has been posted to the driver's record and the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice and state why the proposed action should not occur. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.

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Authority: T.C.A. §55-50-505.

Newly lettered Subparagraph (i) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (i) At the discretion of the Department, a driver under Driver Improvement Program suspension may be issued a restricted driver license or certificate for driving. The Department may place conditions on the driver license or certificate for driving as the Department may determine to be appropriate to insure the safe operation of a motor vehicle by the driver. To obtain a restricted driver license or certificate for driving, the driver must complete an application, furnish proof of SR22, pay the restricted driver license or certificate for driving fee and pass the driver examination. A driver may be issued only one (1) restricted driver license or certificate for driving in a five (5) year period.

Authority: T.C.A. §55-50-505.

Newly lettered subparagraph (j) of Paragraph (7) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash the subparagraph is deleted in its entirety and a new paragraph substituted, so that, as amended, the subparagraph shall read:

- (j) Administrative Probation - For good cause or in extreme circumstances (to be determined by the Department), the Department may place a first offender driver on administrative probation in lieu of suspension. In this event, no suspension of the driver license or certificate for driving shall occur, the probationary period shall be for twelve (12) months, and the driver shall carry all posted points during this time. Good cause or extreme circumstances may include, but not be limited to, drivers temporarily out of the state or country due to the military, employment or education or serious illness.

Authority: T.C.A. §55-50-505.

Subparagraph (a) of Paragraph (8) of Rule 1340-1-4-.04 newly renamed Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph so that, as amended, the subparagraph shall read:

- (a) A notice of proposed suspension shall be sent to second or subsequent offender drivers who accumulate twelve (12) or more points within a twelve (12) month period as calculated pursuant to Paragraph (6). The notice shall advise the driver that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver may be suspended for a period of either six (6) or twelve (12) months, depending on the driver's driving record. The notice shall also provide the driver with written notice of the right to request an administrative hearing. The driver's written request for a hearing must be received within thirty (30) days from the date of the notice and state why the proposed action should not occur. Upon receipt of a timely request for a hearing, the Department shall provide the driver a hearing before a hearing officer.

Authority: T.C.A. §55-50-505.

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Subparagraph (b) of Paragraph (8) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph so that, as amended, the subparagraph shall read:

- (b) Drivers who accumulate twelve (12) or more points within a twelve (12) month period and who have attended a defensive driving course in lieu of suspension within the previous five (5) year period shall have their driver license or certificate for driving suspended for a period of six (6) months.

Authority: T.C.A. §55-50-505.

Subparagraph (c) of Paragraph (8) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph so that, as amended, the subparagraph shall read:

- (c) A driver entering the Driver Improvement Program for a second or subsequent time who has previously attended a defensive driving course in lieu of suspension within the previous five (5) period, and who is currently undergoing, or has previously undergone within the five (5) year period, Driver Improvement Program suspension of a driver license or certificate for driving, shall have driving privileges suspended for twelve (12) months.

Authority: T.C.A. §55-50-505.

Subparagraph (d) of Paragraph (8) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph so that, as amended, the subparagraph shall read:

- (d) A driver entering the Driver Improvement Program for a second or subsequent time, but who has not attended a defensive driving course previously within the five (5) year period may be offered the option to attend a defensive driving course in lieu of suspension of driving privileges.

Authority: T.C.A. §55-50-505.

Subparagraph (f) of Paragraph (8) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (f) Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course. A driver may request an extension of time to attend the defensive driving course, provided that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.

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Authority: T.C.A. §55-50-505.

Subparagraph (g) of Paragraph (8) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course.

Authority: T.C.A. §55-50-505.

Paragraph (9) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of a Traffic Crash is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (9) A hearing officer shall hold the administrative hearing. The hearing officer will explain the Driver Improvement Program, review the driver's driving record, and advise the driver of the options, e.g., whether the driver is eligible to attend a defensive driving course in lieu of suspension of driving privileges.

Authority: T.C.A. §55-50-505.

Newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of Traffic Crash is amended by inserting a new paragraph (10) and renumbering the current paragraph (10) and subsequent paragraphs accordingly, so that, as amended, the rule shall read:

- (10) In any administrative hearing pursuant to T.C.A. §§ 55-12-105, 55-12-129, 55-50-502 or 55-50-505, when any driver who fails to appear at the hearing after receiving proper notice, such driver shall be defaulted. Upon default by a party, the hearing officer may enter either an initial default order or an order for an uncontested proceeding. The driver's case shall be dismissed and the driver's driver license or certificate for driving shall be revoked or suspended pursuant to the applicable statute. A default order must be in writing, with reasons given and appeal rights stated.

Authority: T.C.A. §§ 55-12-103, 55-12-105, 55-12-129, 55-50-202, 55-50-502 and 55-50-505.

Renumbered Paragraph (11) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of Traffic Crash is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (11) Any driver whose driver license or certificate for driving is suspended under the Driver Improvement Program by the hearing officer is eligible to appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).

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Authority: T.C.A. §§ 55-12-103, 55-12-105, 55-12-129, 55-50-202, 55-50-502 and 55-50-505.

Subparagraphs (a) and (b) of renumbered paragraph (12) of newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of Traffic Crash is amended by deleting the subparagraphs in their entirety, so that, as amended, the subparagraphs shall read:

- (a) Provided there is no other revocation, suspension, or cancellation action in effect, a driver will be eligible to regain driving privileges once the driver has served the period of suspension, paid a restoration fee, filed proof of SR22 and passed the driver examination.
- (b) A suspended driver who fails to attend the assigned defensive driving course may be permitted to reinstate driving privileges prior to the eligibility date upon furnishing proof to the Department of attendance and completion of a Department approved defensive driving course. A list of all Department approved defensive driving courses shall be provided to the driver. The driver shall be required to comply with all reinstatement requirements provided for in these rules. Upon furnishing documentation of completion of the defensive driving course, the driver shall be placed on probation for twelve (12) months and all conditions of probation shall apply.

Authority: T.C.A. §§ 55-12-103, 55-12-105, 55-12-129, 55-50-202, 55-50-502 and 55-50-505.

Newly renamed Rule 1340-1-4-.04 Revocation or Suspension of Driver License or Certificate for Driving for Moving Violation Convictions or Contributing to the Occurrence of Traffic Crash is amended by adding a new paragraph (13) so that as amended, the Rule shall read:

- (13) Drivers less than eighteen (18) years of age on the event date of any crash or violation:
 - (a) Each time a crash or violation is posted to the driver's record, the computer shall scan back for a period of twenty-four (24) months from the posted date to determine whether the driver has accumulated three (3) or more points within a twelve (12) month period to warrant a proposed suspension notice.
 - 1. Any crash or violation with an event date prior to the date of the completion of the defensive driving course shall be posted as points calculated as set forth in subparagraph (a).
 - 2. Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be calculated as a violation of probation and may be grounds for revocation of probation.
 - (b) A notice of proposed suspension shall be sent to first offender drivers who accumulate seven (7) or more points within a twelve (12) month period as calculated pursuant to subparagraph (a). The twelve (12) month period shall be calculated retroactively from the date each crash or violation posted in accordance with subparagraph (a). The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall

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be suspended for a period of six (6) months and such driver shall be required to attend a defensive driving course before such driver shall be eligible to reinstate such driver license or certificate for driving. However, if a driver fails to appear for the scheduled hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before such driver shall be eligible to reinstate the driver license or certificate for driving.

- (c) A notice of proposed suspension shall be sent to any first offender driver who has accumulated from three (3) to six (6) points within a twelve (12) month period as calculated pursuant to subparagraph (a). The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the hearing officer may suspend the driver license or certificate for driving for a period of three (3) to six (6) months and/or require the driver to attend a defensive driving course before such driver shall be eligible to reinstate such driver license or certificate for driving. However, if a driver fails to appear for a hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.
- (d) Any driver who has accumulated fewer than three (3) points for any crash or violation shall receive a warning letter from the Department, with a copy sent to the driver's parent/guardian.
- (e) A notice of proposed suspension shall be sent to second or subsequent offender drivers who accumulate three (3) or more points within a twelve (12) month period as calculated pursuant to subparagraph (a), with a copy of the notice sent to the driver's parent/guardian. The notice shall advise the driver and the driver's parent/guardian that the driver has accumulated sufficient points in a twelve (12) month period to be placed in the Driver Improvement Program and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall be suspended for a period of one (1) year and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving. However, if the driver fails to appear for a hearing or request in writing that the hearing be rescheduled, the driver license or certificate for driving shall be suspended for a period of one (1) year and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.
- (f) A driver has ninety (90) days from the date of the letter/order assigning the driver to attend a defensive driving course or ninety (90) days from the date of the driver's hearing to attend a defensive driving course. Failure to complete an assigned defensive driving course shall result in the suspension of the driver license or certificate for driving for six (6) or twelve (12) months, depending on whether the driver has previously attended a defensive driving course. A driver may request an extension of time to attend the defensive driving course, provided

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that the request shall be made in writing at least ten (10) days before the expiration of the ninety (90) day period to attend a defensive driving course. The Department may grant an extension of time to attend the defensive driving course if the driver shows good cause. Good cause for and the length of such extension shall be determined by the Department. The Department shall notify the driver in writing of its decision.

- (g) If no certificate of completion has been received by the Department within seventy-five (75) days from the date of being assigned to attend a defensive driving course, a warning letter shall be issued to the driver advising that the driver was assigned to complete the defensive driving course to avoid suspension of driving privileges, that no proof of completion has been received, and that failure to comply immediately shall result in the suspension of driving privileges for six (6) months.
- (h) After reinstatement of the driver license or certificate for driving, the driver shall be placed on probation for a period of twelve (12) months. Any crash or violation with an event date subsequent to the date of completion of the defensive driving course shall be considered a violation of probation. The driver shall be notified in writing by the Department that any crash or violation with an event date subsequent to the date of completion of the defensive driving course posted to the driver's record shall be cause for revocation of probation and suspension of the license or certificate for driving for six (6) months.
- (i) A notice of proposed revocation of probation shall be sent to any driver who is on probation and who has any crash or violation with an event date as determined in subparagraph (a) posted to the driver's record. A copy of the notice shall be sent to the driver's parent/guardian. The notice shall advise the driver and the driver's parent/guardian that the driver has a crash or violation with an event date as determined in subparagraph (a) posted to the driver's record and that the driver and the driver's parent/guardian shall be required to appear at an administrative hearing to contest the proposed suspension. The Department shall provide the driver a hearing before a hearing officer on the date and at the time specified in the notice. If the hearing officer upholds the determination of the Department, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving. However, if a driver fails to appear for a hearing, the driver license or certificate for driving shall be suspended for a period of six (6) months and the driver shall be required to attend a defensive driving course before the driver shall be eligible to reinstate the driver license or certificate for driving.
- (j) If a driver is eighteen (18) years or older at the time of the hearing provided by the Department pursuant to the driver's timely request for a hearing and the hearing officer upholds the determination of the Department, the driver may be eligible to apply for a restricted driver license or certificate for driving.
- (k) There shall be no limit to the number of times that the Department may require a driver to attend a defensive driving course.

Authority: T.C.A. §55-50-505.

Rule 1340-1-4-.05 Defensive Driving/Accident Prevention Courses Paragraphs (1) and (2) are deleted in their entirety and replaced with the following paragraphs, so that as amended the Rule shall read as follows:

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- (1) Defensive Driving Course Provider Requirements:
- (a) A current State or County business license.
 - (b) Must be at least twenty-one (21) years of age, a high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of application and no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency, and not an employee of the Department.
 - (c) Submit an Application supplied by the Department to the Department's Driver Improvement Unit.
 - (d) Be insured in the amount(s) set forth herein.
 - (e) Provide an eight (8) hour defensive driving class.
 - (f) Issue a certificate of completion on a form supplied by the Department to each student who has successfully completed the defensive driving course. Such certificate shall have thereon the student's full name, driver license number, date of birth, course name, hours completed and the defensive driving course Provider's name and address.
 - (g) Comply with or exceed the minimum standards set forth herein.
 - (h) Only use instructors who meet the qualifications set forth herein.
 - (i) Maintain the following records for a period of three (3) years and ensure that such records are available for inspection by the Department during business hours:
 - 1. A roster of each class, listing the course name, location, instructor's full name, student names, driver license numbers and date of birth.
 - 2. A receipt for each student stating the student's full name, driver license number and amount paid.
 - 3. A list of students who have successfully completed the defensive driving course, with each student's full name, driver license number, date of birth, course name and class location.
 - 4. Course material, which shall include the most recent material to teach crash prevention, safety and defensive driving.
 - 5. Any other records that may be required by the Department.
 - (j) Ensure compliance with all Department rules and regulations.
 - (k) Immediately notify the Department by mail, facsimile or electronic transmission of any change(s) in information on the application or any change in ownership or instructors.
 - (l) Be open for periodic (with or without notice) on-site inspection by the Department.

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- (m) Have a minimum of one (1) instructor per fifty (50) students during classroom instruction, with a maximum of fifty (50) students in any class.
 - (n) Shall not hire any person as an instructor or otherwise who is an employee of the Department.
 - (o) Comply with the requirements of the Americans with Disabilities Act of 1990.
- (2) Defensive Driver Course Instructor Requirements:
- (a) Must be at least twenty-one (21) years of age, high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of hire, no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency and not an employee of the Department.
 - (b) As of July 1, 2005, shall have attended and successfully completed a Defensive Drivers Instructors School operated by AAA, National Safety Council or such other certified school approved by the Department. Such school shall send a copy of the instructor's certificate of completion to the Department's Driver Improvement Unit. The instructor shall maintain current certification.
- (3) Financial Responsibility:
- (a) Each defensive driving course Provider shall attach a certificate of insurance from an insurer authorized to do business in Tennessee to its application:
 - 1. The certificate shall state that the School has liability insurance in the amount of \$300,000.00.
 - 2. The certificate shall stipulate that the insurance shall not be canceled except upon ten (10) days prior notice to the Department.
 - (c) The Insurance Policy shall be available for inspection during business hours.
 - (d) For the protection of the contractual rights of students, each defensive driving course Provider shall have a continuous surety company bond in the principal sum of \$7,500.00 from a company approved by the Department that is authorized to do business in Tennessee. Provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$7,500.00. The surety on any such bond may cancel such bond on giving thirty (30) days notice in writing to the Department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation. Proof of such surety bond shall be attached to the application.
- (4) Denial, Revocation or Suspension:
- (a) The Department may deny, revoke or suspend the defensive driving course Provider or Instructor for any violation of the law, rules or regulations relating to the operation of a defensive driving course.
 - (b) The Department may deny, revoke or suspend the defensive driving course Provider or

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Instructor for actions including, but not limited to the following:

1. Conviction of a Provider or Instructor for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency.
2. Knowingly presenting false or misleading information to the Department.
3. Failure or refusal to permit the Department to inspect, audit or investigate the defensive driving course premises, the defensive driving course class, instruction records, financial records, etc.
4. Failure to submit the application with supporting documentation within the prescribed time limit.
5. Failure to maintain Department approved standards in instruction, equipment or facilities.
6. The presence of alcoholic beverages or narcotic drugs on the premises.
7. The presence of any type of weapon on the premises, except a weapon carried by a commissioned law enforcement officer.

(7) Hearing:

- (a) Any Provider or Instructor of a defensive driving course who has been denied, revoked or suspended shall have the right to request a hearing in writing within thirty (30) days of the date of written notification of such action.
- (b) The hearing shall be before the commissioner or the Commissioner's designee and held in accordance with the Uniform Administrative Procedures Act (T.C.A. §4-5-101, et seq.).

(8) The criteria set forth in this rule shall also apply to accident prevention courses for older drivers as provided for in T.C.A. §56-7-1107.

Authority: T.C.A. §§55-50-505 and 56-7-1107.

Rule 1340-1-4-.06 Suspension of License For Physical or Mental Disabilities is amended by deleting the title in its entirety and substituting a new title, so that, as amended, the title shall read:

1340-1-4-.06 **SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR PHYSICAL OR MENTAL DISABILITIES**

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (1) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving For Physical or Mental Disabilities is amended by deleting the paragraph and subparagraphs in their entirety and substituting a new paragraph and subparagraphs, so that, as amended, the paragraph and subparagraphs shall read:

(1) Mental Standards:

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- (a) Any driver who has been adjudged by a court of competent jurisdiction or has been evaluated by a psychiatrist, psychologist, or mental health facility and found to be suffering from any mental disease or disease including substance abuse, may have the driver's driving privileges suspended until such time as the driver has been restored to competency by court order, order from the superintendent of the mental facility, or other such method provided by law. The driver must apply through the Driver Improvement Unit to receive a clearance/reinstatement order in order to recover, retain or obtain driving privileges.
- (b) If the driver claims to have been restored to competency, a certified copy of the court order or a written statement from a licensed psychiatrist or psychologist or mental health facility must first be mailed to the Driver Improvement Unit by such court, psychiatrist, psychologist or mental health facility.
- (c) After reviewing the certified court order or statement, the Department shall determine if the driver's driving privilege shall be reinstated. If approved, the driver will receive a clearance/reinstatement order from the Driver Improvement Unit.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Part 4. of subparagraph (a) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the part in its entirety and substituting a new part, so that, as amended, the part shall read:

- 4. Drivers previously suspended and requesting a reevaluation of their record due to a purported change in the status of mental or physical health;

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Part 5. of subparagraph (a) of paragraph (1) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the period and substituting “; or”, so that, as amended, the part shall read:

- 5. Written referrals or complaints from physicians or medical professionals; or

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (b) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (b) In cases where the Department receives such reports from other sources, e.g., private citizens, newspaper stories, accident reports not investigated by officers, or confidential information, written notice shall be sent notifying the driver that the information has been received, that the driver license or certificate for driving may be suspended and that the driver has the opportunity to request an administrative hearing within thirty (30) days from the date of the notice. The driver may be required to submit additional information. At the administrative hearing, the driver may be questioned concerning the driver's physical condition and the driver may be asked to submit a medical statement. No action will be taken until the conclusion of the investigation or hearing, and any action at such time will be determined by the results of the investigation or hearing.

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Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (c) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (c) The Department shall notify in writing drivers reported to have a medical problem and the Department shall provide the appropriate medical statement forms and instructions to each driver undergoing a review to determine if the driver's driving privileges should be suspended.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (d) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (d) The medical statement(s) must be completed by a licensed physician and should contain sufficient information regarding the driver's medical condition to enable the Department to determine whether the driver should be permitted to retain or obtain driving privileges. The physician shall be requested to provide an opinion about the driver's ability to drive. The physician's opinion, which is not binding on the Department, will be given consideration in conjunction with other available information.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (e) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph and its parts in their entirety and substituting a new subparagraph and parts, so that, as amended, the subparagraph and parts shall read:

- (e) The medical forms completed by the physician will be reviewed and one or more of the following actions shall take place:
 - 1. If the physician documents that the driver does not have a medical problem relating to the operation of a motor vehicle, the case may be closed. If the case is not closed, it may be referred to the Medical Review Board to reconcile differences in the complaint and the physicians' statement.
 - 2. If the physician cannot positively document that the person does not have a medical condition relating to the operation of a motor vehicle, or if the physician feels that the person should not be allowed to drive for medical reasons, or if the Department so chooses, the medical forms may be forwarded to the Medical Review Board.
 - 3. The Medical Review Board may recommend the suspension of the driver license or certificate for driving and the conditions for the suspension. Upon receipt of the Medical Review Board's recommendation, the Commissioner shall determine the status of the driver's driving privileges. Such determination may be appealed pursuant to the provisions of the Uniform Administrative Procedures Act.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (f) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or

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Certificate for Driving for Physical or Mental Disabilities is amended by deleting the word “license” after the word “driver”, so that, as amended, the subparagraph shall read:

- (f) The Department may require the driver to submit to a special driver examination in lieu of, or in addition to, the medical review process.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (g) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the word “Persons” and substituting the word “Drivers”, so that, as amended, the subparagraph shall read:

- (g) Drivers who fail to furnish the Department with the required medical information will have their driving privileges suspended until such time as a favorable medical report is received and restoration of driving privileges is approved.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (h) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (h) The Department may use independent medical review boards to review and make recommendations if a driver is reported to have a mental or physical condition. The review boards will consist of licensed physicians in fields of specialized or general medicine. Physicians may serve on the medical review board in a voluntary capacity, or they may be paid by the Department if the Department deems such payment appropriate. The recommendations of the medical review board shall not be binding upon the Department.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (i) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (i) The Department shall not issue a driver license or certificate for driving to anyone who suffers from uncontrolled epilepsy (also known as a seizure disorder), momentary lapses of consciousness or control due to epilepsy, cardiac syncope, diabetes, or other conditions until the driver has remained seizure-free or lapse free for a period of one (1) year, and then only upon receipt of a favorable medical statement from the driver’s physician. Provided, however, the driver may be approved for driving privileges if the driver’s condition has been controlled for six (6) months and the Department receives a favorable recommendation from the driver’s physician and the Medical Review Board and the Department approves the issuance of the driver license or certificate for driving.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (j) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph and its parts in their entirety and substituting a new subparagraph and parts, so that, as amended, the subparagraph and parts shall read:

- (j) The medical statement must contain the following information:

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1. The cause of the seizures, lapses, blackouts or loss of consciousness or control;
2. The frequency of the seizures, lapses, blackouts or loss of consciousness or control;
3. The medication taken, if any, and the affect the medication will have on the driver's ability to drive;
4. The driver's compliance with treatment and/or medication; and
5. The physician's recommendation regarding driving ability.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (k) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph and its parts in their entirety and substituting a new subparagraph and parts, so that, as amended, the subparagraph and parts shall read:

- (k) In the following cases, the driver may be immediately suspended until the driver submits the medical statement required by subparagraph (j) and the medical statement is reviewed in accordance with this rule:
1. The driver admits to a history of seizures or other conditions that affects driving ability; or
 2. A person practicing in the medical profession submits information that a driver has a condition that affects driving ability;
 3. A person who has witnessed the driver's inability to drive because of a seizure or other condition submits information;
 4. Friends or relatives who know the driver's condition submit information that a driver has a condition that affects driving ability; or
 5. Courts or persons who have access to reliable information submit information that a driver may have a condition that affects driving ability.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (l) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (l) The procedure set forth in this rule also applies to other physical or mental disabilities where the Department has good cause to believe the driver would not be able to safely operate a motor vehicle because of lapses of consciousness or control.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (m) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its

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entirety and substituting a new subparagraph, so that, as amended, the subparagraph shall read:

- (m) Drivers who have physical disabilities that can be compensated for by the use of physical controls or mechanical devices which enable the driver to safely operate a motor vehicle may be approved for licensing if they meet all other appropriate eligibility criteria.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (n) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the word “Applicants” and inserting the word “Drivers”, so that, as amended, the subparagraph shall read:

- (n) Drivers who are hearing impaired shall be restricted to the operation of vehicles equipped with left and right outside rear-view mirrors.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Subparagraph (p) of paragraph (2) of newly renamed Rule 1340-1-4-.06 Suspension of Driver License or Certificate for Driving for Physical or Mental Disabilities is amended by deleting the subparagraph in its entirety and substituting a new subparagraph so that, as amended, the subparagraph shall read:

- (p) Any driver may request an administrative hearing before a hearing officer within thirty (30) days from the date of written notification of the proposed suspension action. Any driver whose driving privileges have been suspended as a result of a physical or mental disability may appeal the decision of the Department by filing a petition pursuant to the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Rule 1340-1-4-.07 Suspension of License For Failing to Pass or Submit to Re-Examination is amended by deleting the title in its entirety and substituting a new title, so that, as amended, the title shall read:

1340-1-4-.07 SUSPENSION OF DRIVER LICENSE OR CERTIFICATE FOR DRIVING FOR FAILING TO PASS OR SUBMIT TO RE-EXAMINATION.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (1) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (1) The Department may, upon receiving evidence sufficient to establish that a driver is incompetent to operate a motor vehicle or is otherwise not qualified to be licensed, upon written notice of at least thirty (30) days to the driver, require such driver to submit to a driver re-examination and/or submit other information as deemed appropriate. Such notice shall also inform the driver that the driver may request an administrative hearing within thirty (30) days from the date of the notice. Pending the hearing, the Department may suspend the driver license or certificate for driving or permit the driver to retain the driver license or certificate for driving. If a driver fails to request a hearing, the Department shall suspend the driver license or certificate for driving.

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Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (2) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (2) Refusal or neglect of a driver to submit to a re-examination shall be grounds for suspension of the driver license or certificate for driving.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (3) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the word "Period" and substituting the word "Periodic", so that, as amended, the paragraph shall read:

- (3) Periodic re-examinations may be required, such as once a year, in the case of physical or mental conditions, or where there is a deterioration of the visual acuity or motor nerve response.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (4) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the word "undertake" and substituting the word "take", so that, as amended, the paragraph shall read:

- (4) A driver required to undergo re-examination by the Department may take the written and/or vision portion of the driver examination test without limitation.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (5) of newly renamed Rule 1340-1-4-.07 Suspension of License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (5) A driver required to undergo re-examination by the Department may take the on-the-road skills portion of the driver examination test three (3) times at thirty (30) day intervals. If successful, driving privileges shall be reinstated. If the driver does not pass the road test in three (3) attempts, the driver shall not be eligible to re-test for six (6) months from the date of the third test. If the driver does not pass the re-test(s) taken after waiting the six (6) month period, the driver shall not be eligible to re-test for twelve (12) months from the date of the last driver examination.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (6) of newly renamed Rule 1340-1-4-.07 Suspension of License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (6) Drivers with a commercial driver license may be required to submit to re-examination in their commercial vehicle or school bus. If the driver fails the re-examination in the driver's commercial vehicle or school bus but wishes to downgrade to a Class D license, the driver may do so after successfully passing a complete examination in their personal vehicle.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

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Paragraph (8) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (8) Any driver required by the Department to undergo re-examination shall be notified that the driver may request an administrative hearing, provided such request is submitted in writing within thirty (30) days after the date of the written notice. Upon receipt of a request for an administrative hearing, the Department shall provide the driver a hearing before a hearing officer.

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

Paragraph (9) of newly renamed Rule 1340-1-4-.07 Suspension of Driver License or Certificate for Driving For Failing to Pass or Submit to Re-Examination is amended by deleting the paragraph in its entirety and substituting a new paragraph, so that, as amended, the paragraph shall read:

- (9) Any driver whose driver license or certificate for driving is suspended under the Driver Improvement Program may appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. §4-5-101 et seq.).

Authority: T.C.A. §§55-50-303, 55-50-502 and 55-50-505.

The proposed rules set out herein were properly filed in the Department of State on the 18th day of April, 2005, 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 26th day of August, 2005. (04-07)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

FOR TEXT OF PUBLIC NECESSITY RULE, SEE T.A.R. CITED

- 0180 - Department of Financial Institutions - Compliance Division - Public Necessity rules relating to registration of loan originators, chapter 0180-17 Rules Pertaining to Mortgage Lending, Loan Servicing and Loan Brokering, 4 T.A.R. (April 2005) - Filed March 8, 2005; effective through August 20, 2005. (03-09)
- 0620 - Department of Finance and Administration - Division of Mental Retardation Services - Public necessity rules relating to determining the funding mechanism/amounts to be paid to the Division's contractors who aid the mentally retarded in Tennessee, chapter 0940-4-3 Methodology Utilized to Determine Payments to Service providers (Rate Structure), 2 T.A.R. (February 2005) - Filed January 25, 2005; effective through July 9, 2005. (01-20)
- 1640 - TN Student Assistance Corporation - Public necessity rules relative to the Tennessee Lottery Scholarship Program, chapter 1640-1-19 Tennessee Education Lottery Scholarship Program, 2 T.A.R. (February 2005) - Filed January 25, 2005; effective July 9, 2005. (01-20)

PUBLIC NECESSITY RULES

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

**CHAPTER 1200-13-13
TENNCARE MEDICAID**

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

I am herewith submitting amendments to the rules of the Tennessee Department of Finance and Administration, Bureau of TennCare, for promulgation pursuant to the public necessity provisions of the Uniform Administrative Procedures Act, T.C.A. § 4-5-209 and the Medical Assistance Act, T.C.A. § 71-5-134.

The State of Tennessee has received federal approval for certain eligibility amendments to the TennCare Demonstration Project (No. 11-W-0015 1/4). Approval of the project modification is granted under the authority of Section 1115 (a) of the Social Security Act. The amendments are approved through the period ending June 30, 2007. The TennCare program is a managed care program for both the Medicaid population and the expansion population.

The amendments enable the State to close enrollment for the Aged, Blind, Disabled, and Caretaker Relative Medically Needy categories, as defined in the State plan, to persons who are age 21 or older and not pregnant. Non-pregnant individuals age 21 and older who have filed an application in one of these categories prior to the close of business of the offices of the State of Tennessee on April 29, 2005, and who are subsequently determined to have met all eligibility criteria for one of these categories as of the close of business of the offices of the State of Tennessee on April 29, 2005, shall be enrolled in such category and shall continue in the category until the expiration of their current eligibility period.

Tennessee Code Annotated, Section 71-5-134, states that in order to comply with or to implement the provisions of any federal waiver or state plan amendment obtained pursuant to the Medical Assistance Act as amended by Acts 1993, the Commissioner of Finance and Administration is authorized to promulgate public necessity rules pursuant to Tennessee Code Annotated, Section 4-5-209.

I have made a finding that these amendments are required to conform the current TennCare Medicaid rules to reflect changes resulting from the amendment of the TennCare waiver.

For a copy of this public necessity rule, contact George Woods at the Bureau of TennCare by mail at 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0145.

J. D. Hickey
Deputy Commissioner
Department of Finance and Administration

PUBLIC NECESSITY RULES

**PUBLIC NECESSITY RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION**

BUREAU OF TENNCARE

**CHAPTER 1200-13-13
TENNCARE MEDICAID**

AMENDMENTS

Paragraph (3) of rule 1200-13-13-.02 Eligibility is amended by adding subparagraph (c) which shall read as follows:

- (c) Notwithstanding anything in these rules or in the Department of Human Services rules to the contrary, specifically including Chapter 1240-3-2 concerning eligibility of individuals in a Medically Needy category, effective at the close of business of the offices of the State of Tennessee on April 29, 2005, enrollment in the Medically Needy category is closed to all enrollees except for: (a) individuals under the age of twenty-one (21) and (b) pregnant women. Individuals who have filed an application for a Medically Needy category that is open for enrollment prior to the close of business of the offices of the State of Tennessee on April 29, 2005, will be allowed to enroll in such category if it is determined that they have met the eligibility criteria for such category prior to the close of business of the offices of the State of Tennessee on April 29, 2005, even if such determination is made after the close of business of the offices of the State of Tennessee on April 29, 2005. Any individual whose application is approved for enrollment in a Medically Needy category will be enrolled in the Medically Needy category for a period of twelve (12) months from the latter of: (a) the date of his or her application or (b) the date spenddown eligibility is met, so long as both (a) and (b) occur prior to the close of business of the offices of the State of Tennessee on April 29, 2005.

Subpart (iii) of part 2. of subparagraph (l) of paragraph (1) of rule 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment is deleted in its entirety and replaced with a new subpart which shall read as follows:

- (iii) If the individual is no longer TennCare Medicaid-eligible, s/he will then be screened for eligibility as a Medicaid "Rollover". Such enrollees submitting an application to TDHS will have forty-five (45) additional days to complete the process (from the date the application is received at TDHS). This includes scheduling an appointment with the TDHS office in the county where s/he resides and completing the application process. An enrollee under age nineteen (19) who submits an application prior to the end date of Medicaid eligibility and who is found eligible as a Medicaid "Rollover" may be enrolled in TennCare Standard during periods of closed enrollment if s/he meets the technical and financial requirements found at 1200-13-14-.02 of the Rules of TennCare Standard.

Paragraph (1) of rule 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment is amended by adding subparagraph (m) which shall read as follows:

PUBLIC NECESSITY RULES

- (m) Notwithstanding anything in these rules or in the Department of Human Services rules to the contrary, specifically including Chapter 1240-3-2 concerning eligibility of individuals in a Medically Needy category, effective at the close of business of the offices of the State of Tennessee on April 29, 2005, enrollment in the Medically Needy category is closed to all enrollees except for: (a) individuals under the age of twenty-one (21) and (b) pregnant women. Individuals who have filed an application for a Medically Needy category that is open for enrollment prior to the close of business of the offices of the State of Tennessee on April 29, 2005, will be allowed to enroll in such category if it is determined that they have met the eligibility criteria for such category prior to the close of business of the offices of the State of Tennessee on April 29, 2005, even if such determination is made after the close of business of the offices of the State of Tennessee on April 29, 2005. Any individual whose application is approved for enrollment in a Medically Needy category will be enrolled in the Medically Needy category for a period of twelve (12) months from the latter of: (a) the date of his or her application or (b) the date spenddown eligibility is met, so long as both (a) and (b) occur prior to the close of business of the offices of the State of Tennessee on April 29, 2005.

Authority: T.C.A. 4-5-209, 71-5-105, 71-5-109, Executive Order No. 23.

The Public Necessity rules set out herein were properly filed in the Department of State on the 29th day of April, 2005, and will be effective from the date of filing for a period of 165 days. The Public Necessity rules remain in effect through the 11th day of October, 2005. (04-18)

PUBLIC NECESSITY RULES

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

**CHAPTER 1200-13-14
TENNCARE STANDARD**

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

I am herewith submitting amendments to the rules of the Tennessee Department of Finance and Administration, Bureau of TennCare, for promulgation pursuant to the public necessity provisions of the Uniform Administrative Procedures Act, T.C.A. §4-5-209 and the Medical Assistance Act, T.C.A. §71-5-134.

The State of Tennessee has received federal approval for certain eligibility amendments to the TennCare Demonstration Project (No. 11-W-0015 1/4). Approval of the project modification is granted under the authority of Section 1115 (a) of the Social Security Act. The amendments are approved through the period ending June 30, 2007. The TennCare program is a managed care program for both the Medicaid population and the expansion population.

The amendments enables the State to close enrollment effective at the close of business of the offices of the State of Tennessee on April 29, 2005, to the following groups:

- All new TennCare Standard applicants, including children, who are medically eligible and have income below one hundred (100%) percent of the poverty level; and
- Medicaid Rollovers age nineteen (19) and older who are losing Medicaid eligibility and applying to rollover to TennCare Standard.

Tennessee Code Annotated, Section 71-5-134, states that in order to comply with or to implement the provisions of any federal waiver or state plan amendment obtained pursuant to the Medical Assistance Act as amended by Acts 1993, the Commissioner of Finance and Administration is authorized to promulgate public necessity rules pursuant to Tennessee Code Annotated, Section 4-5-209.

I have made a finding that these amendments are required to conform the current TennCare Standard rules to reflect changes resulting from the amendment of the TennCare waiver.

For a copy of this public necessity rule, contact George Woods at the Bureau of TennCare by mail at 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0145.

J. D. Hickey
Deputy Commissioner
Department of Finance and Administration

PUBLIC NECESSITY RULES

**PUBLIC NECESSITY RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION**

BUREAU OF TENNCARE

**CHAPTER 1200-13-14
TENNCARE STANDARD**

AMENDMENTS

Subparagraph (a) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) Tennessee residents who are medically eligible and have income below one hundred (100%) percent of the poverty level. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of "Medically Eligible" is closed to enrollment for adults and children, notwithstanding anything in these rules to the contrary.

Part 3. of subparagraph (e) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new part 3. which shall read as follows:

3. If the individual is no longer TennCare Medicaid-eligible, she/he will then be screened for eligibility as a Medicaid "Rollover". Such enrollees submitting an application to TDHS will have forty-five (45) additional days to complete the process (from the date the application is received at TDHS). This includes scheduling an appointment with the TDHS office in the county where she/he resides and completing the application process. Enrollees under age nineteen (19) found eligible as a Medicaid "Rollover" may be enrolled in TennCare Standard even during periods of closed enrollment if she/he meets the technical and financial requirements found herein. Such enrollee will be allowed to enroll in TennCare Standard at any time up to thirty (30) days following expiration of TennCare Medicaid.

Subparagraph (e) of paragraph (3) of rule 1200-13-14-.02 Eligibility is amended by adding part 5. which shall read as follows:

5. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of Medicaid "Rollover" is closed to enrollment for adults aged nineteen (19) and older, notwithstanding anything in these rules to the contrary.

Subparagraph (f) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new subparagraph (f) which shall read as follows:

- (f) If a Medicaid enrollee under age (19) whose Medicaid eligibility is ending is determined to otherwise meet technical eligibility requirements for TennCare Standard, but is not eligible as uninsured because his/her income is above the level specified by the Legislature, she/he will be sent a letter denying TennCare Standard coverage as uninsured and notifying the enrollee that she/he may qualify as Medically Eligible. The enrollee will have thirty (30) days to appeal the denial of TennCare Standard as uninsured. The enrollee will be sent a medical eligibility packet with explanation regarding how to apply for TennCare Standard as a medically eligible person. The enrollee will have sixty (60) days to submit his/her medical

PUBLIC NECESSITY RULES

eligibility packet and the required documentation for determination of medical eligibility. If the individual is determined to qualify as Medically Eligible, coverage will be provided throughout the eligibility determination period and will continue with no break. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of "Medically Eligible" is closed to enrollment for adults and children, notwithstanding anything in these rules to the contrary.

Authority: *T.C.A. 4-5-209, 71-5-105, 71-5-109, Executive Order No. 23.*

The Public Necessity rules set out herein were properly filed in the Department of State on the 29th day of April, 2005, and will be effective from the date of filing for a period of 165 days. The Public Necessity rules remain in effect through the 11th day of October, 2005. (04-17)

RULEMAKING HEARINGS

DEPARTMENT OF COMMERCE AND INSURANCE - 0780 DIVISION OF REGULATORY BOARDS

There will be a hearing before the Commissioner of Commerce and Insurance or her designee to consider the promulgation of rules pursuant to Tenn. Code Ann. §§ 56-1-302(a)(5) and 4-3-1011. 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 Wednesday, June 22, 2005.

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 Don Coleman, 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 Linda Goodwin, 500 James Robertson Parkway, 2nd Floor, Nashville, Tennessee 37243 at (615) 741-3449.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0780-5-11 GENERAL PROVISIONS

NEW RULE

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0780-5-11-.02 Regulatory Fee

0780-5-11-.02 REGULATORY FEE.

The Division or any board, commission or agency attached thereto is authorized to charge to each licensee, permittee or registrant a state regulatory fee of five dollars (\$5.00) per year (or ten dollars (\$10.00) per biennial renewal period) or such other amount as set each year in the general appropriations act. The state regulatory fee shall be in addition to each license, permit or registration fee charged by the Division or any board, commission or agency attached thereto and shall be due at the same time as the initial license, permit or registration fee or renewal fee.

Authority: T.C.A. §§ 56-1-302(a)(5) and 4-3-1011.

The notice of rulemaking hearing rules set out herein was properly filed in the Department of State on the 27th day of April, 2005. (04-11)

RULEMAKING HEARINGS

BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES - 1370 COUNCIL FOR LICENSING HEARING INSTRUMENT SPECIALISTS

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences' Council for Licensing Hearing Instrument Specialists to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-203. 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 Cumberland Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 5th day of July, 2005.

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 1370-2-.05, Procedures for Licensure, is amended by adding the following language as new subparagraph (1) (k), and is further amended by adding the following language as new subparagraph (3) (k) and renumbering the remaining subparagraphs accordingly, and is further amended by adding the following language as new subparagraph (4) (l), so that as amended, the new subparagraphs (1) (k), (3) (k), and (4) (l) shall read:

- (1) (k) An applicant shall cause to be submitted to the Council's administrative office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.
- (3) (k) An applicant shall cause to be submitted to the Council's administrative office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.
- (4) (l) An applicant shall cause to be submitted to the Council's administrative office directly from the vendor identified in the Council's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-203, and 63-17-219.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of April, 2005. (04-01)

RULEMAKING HEARINGS

**THE TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620
DIVISION OF MENTAL RETARDATION SERVICES**

There will be three hearings before the Division of Mental Retardation Services to consider the promulgation of Rules – Rate Structure pursuant to : T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively. The Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place as follows:

East Tennessee: Lakeshore Mental Health Institute, Maple Cottage, 5908 Lyons View Drive, Knoxville, TN 37919 1:00 EDST, June 21, 2005

Middle Tennessee: Clover Bottom Developmental Center, One Canon Way, Basement Large Conference Room, 275 Stewarts Ferry Pike, Nashville, TN 37214, 1:00 CDST, June 23, 2005

West Tennessee: Arlington Developmental Center Auditorium, Baker Building, 11293 Memphis-Arlington Rd., Memphis, Tennessee 38002, 1:00 CDST, June 28, 2005.

Any individuals with disabilities who wish to participate in these proceedings regarding Rate Structure Rules should contact the Division of Mental Retardation Services 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 they plan to attend to determine how it may reasonably provide such aid or service. Initial contact may be made with Brenda Clark, ADA Coordinator, Andrew Jackson Building, 13th floor, 500 Deaderick Street, Nashville, TN 37243, (615) 253-6811.

For a copy of this notice of rulemaking hearing, contact: Carolyn Griffith, Division of Mental Retardation Services, Andrew Jackson Building, 15th Floor, 500 Deaderick Street, Nashville, TN 34243, 615 253-2025.

SUBSTANCE OF PROPOSED RULES

**CHAPTER 0940 – 4 – 3
METHODOLOGY UTILIZED TO DETERMINE PAYMENTS TO SERVICE PROVIDERS
(RATE STRUCTURE)**

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0940-4-3-.01 PURPOSE.

This chapter establishes a rate setting methodology for Residential and Day Services that are provided through the Department of Finance and Administration – Division of Mental Retardation Services.

RULEMAKING HEARINGS

Authority: *T.C.A. §33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

0940-4-3-.02 SCOPE.

These rules apply to the procedures and practices used to establish rates of payment for Residential and Day Services acquired by the Department of Finance and Administration – Division of Mental Retardation Services for or on behalf of those persons served by it under the provisions of Title 33 of the *Tennessee Code Annotated* and *Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23*, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

Authority: *T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

0940-4-3-.03 DEFINITIONS.

As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:

- (1) “Administrative Costs” are the allowable percentage of the service rate that includes the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.
- (2) “Base Rates” are the rates established using the base rate setting methodology.
- (3) “Direct Service Costs” are the costs for direct service staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.
- (4) “Full Time Equivalent (FTE)” means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) days of payment to cover service recipient absences.
- (5) “Non-Direct Program Costs” is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.
- (6) “Rate” is the amount paid per person to approved service providers for each unit of a DMRS service that is provided. A unit may be a portion of an hour, an hour, a day, a month, an item or a job, depending on the type of service.

RULEMAKING HEARINGS

- (7) "Rate Adjustment" is an increase(s) to the base rates that may be across the board adjustments for costs of living or increases for specific purposes that are appropriated by the Tennessee legislature.
- (8) "Rate Levels" are the series of rates for residential and day services that are based on the intensity of a service recipient's needs and the size or site of the service setting.
- (9) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgement of estimated hours of direct support staff assistance required for individuals at each rate level.
- (10) "Rate Setting Methodology" is the manner in which the base rates for residential and day services are calculated or determined.
- (11) "Special Needs Adjustment" is an additional payment that may be added to the residential rate for an individual when certain specified criteria are met.
- (12) "Uniform Cost Report" is the mandatory annual report completed by providers of residential and/or day services that is submitted to the Division of Mental Retardation Services. The Uniform Cost Report is completed in the manner and in a format required by the Division.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.04 RATE SETTING METHODOLOGIES FOR MEDICAL, RESIDENTIAL AND SUPPORTED LIVING.

- (1) Medical Residential, Residential Habilitation and Supported Living (Shift-Staffed) Model.
 - (a) For residential services that are shift-staffed, staff coverage is calculated as follows:
 1. 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per week.
 2. 3.45 Full Time Equivalentents (FTE) are required to provide this coverage.
 3. The unit of service for these residential services is a day.
 - (b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:
 1. Hourly direct support staff wage plus % for benefits for the hourly cost for direct support staff.
 2. Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
 3. Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.
 4. Add together the hourly cost for direct support staff and the hourly cost for supervision.

RULEMAKING HEARINGS

5. Multiply the result from Step four by one and the % allowed (e.g. multiply by 1.20 for 20%) for non-direct program costs.
 6. Multiply the result from Step five by one and the % allowed (e.g. multiply by 1.125 for 21.5%) for administrative costs to arrive at the hourly cost for coverage.
 7. Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.
 8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
 9. Divide the daily cost by 3.45 FTEs to arrive at the daily FTE cost per person.
- (c) Calculation for the daily rate per person is:
1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
 2. Divide the result of Step one by the facility size.
 3. Multiply the result of Step two by 385 (to allow for 20 absent days).
 4. Divide the result of Step three by 365 to arrive at the daily rate.
- (2) Supported Living-Companion Model
- (a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:
- (b) Calculate the daily rate per person.
1. Multiply the annual stipend by one and the % for benefits.
 2. Add the companion room and board allowance.
 3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
 4. Add costs in steps one through three.
 5. Multiply the result of step four by one and the percent for non-direct program costs.
 6. Multiply the result of step five by one and the percent for administrative costs.
 7. Divide the result of step six by 365.
 8. Multiply the result of step seven by 385 (to allow for 20 absent days).
 9. Divide the result of step eight by 365 to arrive at the daily rate.
- (3) Family Model for Residential Services

RULEMAKING HEARINGS

- (a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.
- (b) Calculate the daily rate per person.
 - 1. Multiply the annual stipend by one and the % for benefits.
 - 2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
 - 3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.
 - 4. Add costs in steps 1 through 3 above.
 - 5. Multiply the result of step four by one and the percent for non-direct program costs.
 - 6. Multiply the result of step five by one and the percent for administrative costs.
 - 7. Divide the result of step six by 365 days.
 - 8. Multiply the result of step seven by 385 days (to allow for 20 absent days).
 - 9. Divide the result of step eight by 365 days to arrive at the daily rate.
- (4) Semi-Independent Living Model
 - (a) Semi-Independent Living services are residential services provided to individuals who require limited support. The unit of service is a month.
 - (b) Calculate the monthly rate per person.
 - 1. Multiply the hours per month amount for direct support staff by one and the % for benefits.
 - 2. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 12 months.
 - 3. Add one hundred and twenty dollars (\$120.00) for transportation
 - 4. Add one hundred and fifty-five dollars (\$155.00) per month for case management/program supervision.
 - 5. Multiply the results of steps one through four by one and the percent for administrative costs.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

RULEMAKING HEARINGS

0940-4-3-.05 SPECIAL NEEDS ADJUSTMENTS.

- (1) An adjustment of an additional sixty dollars (\$60.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.
- (2) An adjustment of twenty dollars (\$20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.
- (3) This adjustment may be used for additional staff coverage or higher wages for staff.
- (4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:
 - (a) The individual has a history of significant behavioral or psychiatric problems that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.
 - (b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.
 - (c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.
 - (d) The person needs a roommate and requires a special adjustment until one moves in. A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.06 RATE SETTING METHODOLOGIES FOR DAY SERVICES.

- (1) The unit of service is a day except for Follow Along which is a month.
- (2) For day services staff coverage is calculated for 6 hours per day for 243 days per year.
- (3) The cost models were calculated with the following direct service cost factors:
 - (a) Non-direct program costs at twenty percent (20%).
 - (b) Administrative costs at twelve and one-half percent (12.5%).
 - (c) Transportation costs per day per person.
 - (d) Twenty (20) leave days.
- (4) Rate level factor based on service setting and intensity of need.

RULEMAKING HEARINGS

- (5) Day Service settings include day habilitation facilities, community locations, and community employment locations.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.07 RATE SETTING METHODOLOGIES FOR CLINICAL SERVICES.

- (1) The unit for therapy and nursing services is a quarter hour.
- (2) The Unit for behavioral services is an hour.
- (3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.08 RATE SETTING METHODOLOGIES FOR RESPITE AND PERSONAL ASSISTANCE SERVICES.

- (1) The unit for respite and personal assistance services may be hourly or daily rates.
- (2) The rates are calculated based on hourly direct service costs and a percentage for administrative costs.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.09 RATE SETTING METHODOLOGIES FOR DENTAL SERVICES.

Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

0940-4-3-.10 RATE SETTING METHODOLOGIES FOR PERSONAL EMERGENCY RESPONSE SYSTEMS.

Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority: T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

RULEMAKING HEARINGS

0940-4-3-.11 RATE SETTING METHODOLOGIES FOR SPECIALIZED MEDICAL EQUIPMENT AND SUPPLIES.

Rates paid are the usual and customary costs for the equipment or supplies.

Authority: *T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

0940-4-3-.12 RATE SETTING METHODOLOGIES FOR ENVIRONMENTAL MODIFICATIONS

Rates paid are the usual and customary costs for the modification.

Authority: *T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

0940-4-3-.13 RATE SETTING METHODOLOGIES FOR VEHICLE MODIFICATIONS.

Rates paid are the usual and customary costs for the modification.

Authority: *T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

0940-4-3-.14 RATE SETTING METHODOLOGIES FOR VISION SERVICES.

Rates paid are the usual and customary charges for examination and corrective lenses.

Authority: *T.C.A. § 33-1-309(d) and Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23 dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of April, 2005. (04-06)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620 BUREAU OF TENNCARE

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day June 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULES

Subparagraph (b) of paragraph (27) of rule 1200-13-13-.01 Definitions (TennCare Medicaid) is deleted in its entirety and replaced with a new subparagraph (b) which shall read as follows:

- (b) An MCC's failure to provide timely prior authorization of a TennCare service. In no event shall a prior authorization decision be deemed timely unless it is granted within fourteen (14) calendar days of the MCC's receipt of a request for such authorization. A shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his need, as defined by a prudent lay person.

Part 2. of subparagraph (b) of paragraph (1) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is amended by deleting the word and number "twenty-one (21)" and replacing them with the word and number "fourteen (14)" so as amended part 2. shall read as follows:

2. Written notice of an MCC's decision in response to a request by or on behalf of an enrollee for medical or related services must be provided within fourteen (14) calendar days of receipt of the request; however, a shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his/her need, as defined by a prudent lay person.

Subparagraph (e) of paragraph (2) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is amended by adding the sentence "Oral appeals shall be followed up with an oral filing with a written, signed appeal, however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing" so as amended subparagraph (e) shall read as follows:

RULEMAKING HEARINGS

- (e) To appeal in person, by telephone, or in writing. Reasonable accommodations shall be made for persons with disabilities who require assistance with his/her appeal, such as an appeal by TDD services or other communication device for people with disabilities. Written requests for appeals made at county TDHS offices shall be stamped, and immediately forwarded to the TennCare Bureau for processing and entry in the central registry. Oral appeals shall be followed up with an oral filing with a written, signed appeal; however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing;

Subparagraph (a) of paragraph (7) of rule 1200-13-13-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Medicaid) is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) Subject to the provisions of subparagraphs (7)(e) and (f) below and to provisions relating to medical contraindication (paragraph (8)), the failure of an MCC to act upon a request for prior approval within fourteen (14) days as provided in (1)(b)2. above shall result in automatic authorization of the requested service.

Authority: T.C.A 4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of April 2005. (04-21)

RULEMAKING HEARINGS

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

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day June 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULES

TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION

BUREAU OF TENNCARE

**CHAPTER 1200-13-13
TENNCARE MEDICAID**

AMENDMENTS

Paragraph (3) of rule 1200-13-13-.02 Eligibility is amended by adding subparagraph (c) which shall read as follows:

- (c) Notwithstanding anything in these rules or in the Department of Human Services rules to the contrary, specifically including Chapter 1240-3-2 concerning eligibility of individuals in a Medically Needy category, effective at the close of business of the offices of the State of Tennessee on April 29, 2005, enrollment in the Medically Needy category is closed to all enrollees except for: (a) individuals under the age of twenty-one (21) and (b) pregnant women. Individuals who have filed an application for a Medically Needy category that is open for enrollment prior to the close of business of the offices of the State of Tennessee on April 29, 2005, will be allowed to enroll in such category if it is determined that they have met the eligibility criteria for such category prior to the close of business of the offices of the State of Tennessee on April 29, 2005, even if such determination is made after the close of business of the offices of the State of Tennessee on April 29, 2005. Any individual whose application is approved for enrollment in a Medically Needy category will be enrolled in the Medically Needy category for a period of twelve (12) months from the latter of: (a) the date

RULEMAKING HEARINGS

of his or her application or (b) the date spenddown eligibility is met, so long as both (a) and (b) occur prior to the close of business of the offices of the State of Tennessee on April 29, 2005.

Subpart (iii) of part 2. of subparagraph (l) of paragraph (1) of rule 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment is deleted in its entirety and replaced with a new subpart which shall read as follows:

- (iii) If the individual is no longer TennCare Medicaid-eligible, s/he will then be screened for eligibility as a Medicaid "Rollover". Such enrollees submitting an application to TDHS will have forty-five (45) additional days to complete the process (from the date the application is received at TDHS). This includes scheduling an appointment with the TDHS office in the county where s/he resides and completing the application process. An enrollee under age nineteen (19) who submits an application prior to the end date of Medicaid eligibility and who is found eligible as a Medicaid "Rollover" may be enrolled in TennCare Standard during periods of closed enrollment if s/he meets the technical and financial requirements found at 1200-13-14-.02 of the Rules of TennCare Standard.

Paragraph (1) of rule 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment, and Reassignment is amended by adding subparagraph (m) which shall read as follows:

- (m) Notwithstanding anything in these rules or in the Department of Human Services rules to the contrary, specifically including Chapter 1240-3-2 concerning eligibility of individuals in a Medically Needy category, effective at the close of business of the offices of the State of Tennessee on April 29, 2005, enrollment in the Medically Needy category is closed to all enrollees except for: (a) individuals under the age of twenty-one (21) and (b) pregnant women. Individuals who have filed an application for a Medically Needy category that is open for enrollment prior to the close of business of the offices of the State of Tennessee on April 29, 2005, will be allowed to enroll in such category if it is determined that they have met the eligibility criteria for such category prior to the close of business of the offices of the State of Tennessee on April 29, 2005, even if such determination is made after the close of business of the offices of the State of Tennessee on April 29, 2005. Any individual whose application is approved for enrollment in a Medically Needy category will be enrolled in the Medically Needy category for a period of twelve (12) months from the latter of: (a) the date of his or her application or (b) the date spenddown eligibility is met, so long as both (a) and (b) occur prior to the close of business of the offices of the State of Tennessee on April 29, 2005.

Authority: T.C.A. 4-5-209, 71-5-105, 71-5-109, Executive Order No. 23.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of April, 2005. (04-20)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620 BUREAU OF TENNCARE

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day June 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULES

Subparagraph (b) of paragraph (27) of rule 1200-13-14-.01 Definitions (TennCare Standard) is deleted in its entirety and replaced with a new subparagraph (b) which shall read as follows:

- (b) An MCC's failure to provide timely prior authorization of a TennCare service. In no event shall a prior authorization decision be deemed timely unless it is granted within fourteen (14) calendar days of the MCC's receipt of a request for such authorization. A shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his need, as defined by a prudent lay person.

Part 2. of subparagraph (b) of paragraph (1) of rule 1200-13-14-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Standard) is amended by deleting the word and number "twenty-one (21)" and replacing them with the word and number "fourteen (14)" so as amended part 2. shall read as follows:

- 2. Written notice of an MCC's decision in response to a request by or on behalf of an enrollee for medical or related services must be provided within fourteen (14) calendar days of receipt of the request; however, a shorter period is required if a more prompt response is medically necessary in light of the enrollee's condition and the urgency of his/her need, as defined by a prudent lay person.

Subparagraph (e) of paragraph (2) of rule 1200-13-14-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Standard) is amended by adding the sentence "Oral appeals shall be followed up with an oral filing with a written, signed appeal, however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing" so as amended subparagraph (e) shall read as follows:

RULEMAKING HEARINGS

- (e) To appeal in person, by telephone, or in writing. Reasonable accommodations shall be made for persons with disabilities who require assistance with his/her appeal, such as an appeal by TDD services or other communication device for people with disabilities. Written requests for appeals made at county TDHS offices shall be stamped, and immediately forwarded to the TennCare Bureau for processing and entry in the central registry. Oral appeals shall be followed up with an oral filing with a written, signed appeal; however, if the enrollee does not follow up in writing, the appeal will continue for resolution or for hearing;

Subparagraph (a) of paragraph (7) of rule 1200-13-14-.11 Appeal of Adverse Actions Affecting TennCare Services or Benefits (TennCare Standard) is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) Subject to the provisions of subparagraphs (7)(e) and (f) below and to provisions relating to medical contraindication (paragraph (8)), the failure of an MCC to act upon a request for prior approval within fourteen (14) days as provided in (1)(b)2. above shall result in automatic authorization of the requested service.

Authority: *T.C.A 4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of April, 2005. (04-22)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620 BUREAU OF TENNCARE

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Room 16 of the Legislative Plaza, 6th Avenue North, Nashville, Tennessee, at 9:00 a.m. C.D.T. on the 16th day June 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or by telephone at (615) 741-0155 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 729 Church Street, Nashville, Tennessee 37247-6501 or call (615) 741-0145.

SUBSTANCE OF PROPOSED RULES

Subparagraph (a) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new subparagraph (a) which shall read as follows:

- (a) Tennessee residents who are medically eligible and have income below one hundred (100%) percent of the poverty level. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of "Medically Eligible" is closed to enrollment for adults and children, notwithstanding anything in these rules to the contrary.

Part 3. of subparagraph (e) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new part 3. which shall read as follows:

3. If the individual is no longer TennCare Medicaid-eligible, s/he will then be screened for eligibility as a Medicaid "Rollover". Such enrollees submitting an application to TDHS will have forty-five (45) additional days to complete the process (from the date the application is received at TDHS). This includes scheduling an appointment with the TDHS office in the county where s/he resides and completing the application process. Enrollees under age nineteen (19) found eligible as a Medicaid "Rollover" may be enrolled in TennCare Standard even during periods of closed enrollment if s/he meets the technical and financial requirements found herein. Such enrollee will be allowed to enroll in TennCare Standard at any time up to thirty (30) days following expiration of TennCare Medicaid.

Subparagraph (e) of paragraph (3) of rule 1200-13-14-.02 Eligibility is amended by adding part 5. which shall read as follows:

RULEMAKING HEARINGS

5. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of Medicaid "Rollover" is closed to enrollment for adults aged nineteen (19) and older, notwithstanding anything in these rules to the contrary.

Subparagraph (f) of paragraph (3) of rule 1200-13-14-.02 Eligibility is deleted in its entirety and replaced with a new subparagraph (f) which shall read as follows:

- (f) If the enrollee is not eligible for TennCare Standard because his/her income is above the level specified by the Legislature s/he will be sent a letter denying TennCare Standard coverage. The enrollee will have thirty (30) days to appeal the denial. If the enrollee does not have access to health insurance and requests a Medical Eligibility Determination packet s/he will be sent a medical eligibility packet that tells the enrollee how to apply for TennCare Standard as a medically eligible person. The enrollee will have forty-five (45) days to submit his/her medical eligibility packet and the required documentation for determination of medical eligibility as defined in these rules. The individual will remain eligible for TennCare until the conclusion of the entire eligibility determination process. Effective at the close of business of the offices of the State of Tennessee on April 29, 2005, the TennCare Standard category of "Medically Eligible" is closed to enrollment for adults and children, notwithstanding anything in these rules to the contrary.

Authority: T.C.A 4-5-202, 4-5-203, 71-5-105, 71-5-109, Executive Order No. 23.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of April, 2005. (04-19)

RULEMAKING HEARINGS

DEPARTMENT OF HEALTH - 1200 TENNESSEE MEDICAL LABORATORY BOARD DIVISION OF HEALTH RELATED BOARDS

There will be a hearing before the Tennessee Medical Laboratory Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-29-103, 68-29-104, 68-29-105, 68-29-107, 68-29-116, 68-29-118, and 68-29-125. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 8th day of July, 2005.

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

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

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

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1200-6-1-.20 Qualifications and Duties of the Medical Laboratory Director, is amended by deleting part (5) (e) 15. in its entirety and substituting instead the following language, so that as amended, the new part (5) (e) 15. shall read:

- (5) (e) 15. Ensure, in writing, the responsibilities and duties of each person engaged in the performance of the preanalytic, analytic, and postanalytic phases of testing, that identifies which examinations and procedures each individual is authorized to perform, whether supervision is required for specimen processing, test performance or result reporting and whether supervisory or director review is required prior to reporting patient test results; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-103, 68-29-105, 68-29-116, and 68-29-118.

Rule 1200-6-1-.21 Qualifications and Duties of the Medical Laboratory Supervisor, is amended by deleting subparagraph (2) (b) but not its parts, and substituting instead the following language, so that as amended, the new subparagraph (2) (b) but not its parts shall read:

- (2) (b) The medical laboratory supervisor may delegate, pursuant to written policy, to the medical laboratory supervisor specific duties that do not comprise the practice of medicine, including but not limited to the following:

RULEMAKING HEARINGS

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-103, 68-29-105, and 68-29-116.

Rule 1200-6-3-.09 Quality Control, is amended by deleting paragraph (8) but not its subparagraphs, and substituting instead the following language, so that as amended, the new paragraph (8) but not its subparagraphs shall read:

- (8) Standard: Control Procedures – Control procedures are performed on a routine basis to monitor the stability of the method or test system; control materials provide a means to indirectly assess the accuracy and precision of patient test results. Control procedures must be performed as defined in this paragraph unless otherwise specified in paragraphs 1200-6-3-.09 (12) through 1200-6-3-.09 (34).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-105, and 68-29-125.

Rule 1200-6-3-.12 Referrals of Cultures to the Department of Health, is amended by deleting subparagraph (1) (o) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (1) (u), (1) (v), (1) (w), (1) (x) and (1) (y), so that as amended, the new subparagraphs (1) (o), (1) (u), (1) (v), (1) (w), (1) (x) and (1) (y) shall read:

- (1) (o) Escherichia coli O157:H7
- (1) (u) Bacillus anthracis
- (1) (v) Burkholderia mallei
- (1) (w) Burkholderia pseudomallei
- (1) (x) Vancomycin resistant staphylococcus aureus (VRSA)
- (1) (y) Vancomycin intermediate staphylococcus aureus (VISA)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-105, and 68-29-107.

Rule 1200-6-3-.16 Alternate Site Testing, is amended by deleting part (1) (c) 5. in its entirety and substituting instead the following language, so that as amended, the new part (1) (c) 5. shall read:

- (1) (c) 5. The Medical Laboratory Director, once having established critical values, shall have the discretion to determine if, consistent with good patient care, whether there is a need for verification by the clinical laboratory when values fall above or below the established critical values.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-29-104, and 68-29-105.

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of April, 2005. (04-05)

RULEMAKING HEARINGS

DEPARTMENT OF HEALTH - 1200 DIVISION OF EMERGENCY MEDICAL SERVICES

There will be a hearing before the Emergency Medical Services Board to consider the promulgation of amendments of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-140-504, 68-140-506, 68-140-508, 68-140-511, and 68-140-525. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building, Ground Floor, located at 425 Fifth Avenue North, Nashville, Tennessee at 10:00 a.m., Central Daylight Time, on the 16th of June, 2005.

Any individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Department of Health, Division of Emergency Medical Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party plans to review such filings, to allow time for the Division of Emergency Medical Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the department's ADA coordinator at the Andrew Johnson Tower, 11th Floor, 710 James Robertson Parkway, Nashville, TN 37243-0675, 615-741-6350.

For a copy of the entire text of the notice of rulemaking, contact Richard F. Land, Director of Ambulance Service Licensure and Regulation, Division of Emergency Medical Services, Cordell Hull Building, First Floor, 425 Fifth Avenue, North, Nashville, TN 37247-0701, 615-741-2584.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS OF RULES

Rule 1200-12-1-.04 Emergency Medical Technician is amended by adding the following new language as a new paragraph (11):

- (11) An applicant shall cause to be submitted to the administrative office of the Division of Emergency Medical Services, directly from the vendor identified in the Division's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-140-504, 68-140-506, 68-140-508, 68-140-511, and 68-140-525.

Rule 1200-12-1-.18 Emergency Medical Dispatcher Standards is amended by adding the following new language as a new paragraph (6):

- (6) An applicant shall cause to be submitted to the administrative office of the Division of Emergency Medical Services, directly from the vendor identified in the Division's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-140-203, 68-140-504, 68-140-506, 68-140-508, 68-140-511, and 68-140-525.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of April, 2005. (04-16)

RULEMAKING HEARINGS

BOARD OF VETERINARY MEDICAL EXAMINERS - 1730

There will be a hearing before the Tennessee Board of Veterinary Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-12-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Tennessee Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CDT) on the 13th day of July, 2005.

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 1730-1-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (h), (2) (g) and (3) (a), and renumbering the remaining subparagraphs accordingly:

- (1) (h) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (3) (a) Cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check; and

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

Rule 1730-1-.06, Fees, is amended by adding the following language as new subparagraphs (1) (f) and (3) (f), and renumbering the remaining subparagraphs accordingly:

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

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- (3) (f) Replacement License or Renewal Certificate Fee 25.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-12-106, and 63-12-123.

Rule 1730-3-.05, Procedures for Licensure, is amended by adding the following language as new subparagraphs (1) (h) and (2) (g), and renumbering the remaining subparagraphs accordingly:

- (1) (h) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (2) (g) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-124, and 63-12-135.

Rule 1730-3-.06, Fees, is amended by adding the following language as new subparagraphs (1) (g) and (3) (g), and renumbering the remaining subparagraphs as (1) (h) and (3) (h):

- (1) (g) Replacement License or Renewal Certificate Fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license or renewal certificate.
- (3) (g) Replacement License or Renewal Certificate Fee 25.00

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-12-106, 63-12-123, and 63-12-135.

Rule 1730-5-.04, Procedures for Certification, is amended by adding the following language as paragraph (5), and renumbering the present paragraph (5) as paragraph (6):

- (5) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's certification application materials, the result of a criminal background check.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-12-106, 63-12-124, and 63-12-141.

Rule 1730-5-.06, Fees, is amended by adding the following language as new subparagraphs (1) (e) and (3) (e), and renumbering the remaining subparagraphs as (1) (f) and (3) (f):

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

RULEMAKING HEARINGS

(3) (e) Replacement Certificate Fee

25.00

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-106, 63-12-106, 63-12-123, and 63-12-141.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of April, 2005. (04-09)

RULEMAKING HEARINGS

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, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 23rd day of June, 2005.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Wildlife Resources Agency to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Tennessee Wildlife Resources Agency to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Wildlife Resources Agency ADA Coordinator, Carolyn Wilson, Room 229, Tennessee Wildlife Resources Agency Building, Ellington Agricultural Center, Nashville, Tennessee 37204, telephone number (615)781-6594.

For a copy of this notice of rulemaking hearing, contact: Sheryl Holtam, Attorney, Tennessee Wildlife Resources Agency, P.O. Box 40747, Nashville, TN 37204, telephone number (615)781-6606.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1660-1-27

RULES AND REGULATIONS FOR HUNTER EDUCATION CENTERS AND FIRING RANGES

AMENDMENT

Rule 1660-1-27-.04, STONES RIVER HUNTER EDUCATION CENTER is amended by inserting "AND CHEATHAM WMA FIRING RANGE" immediately following "STONES RIVER HUNTER EDUCATION CENTER" in the title to read as follows:

1660-1-27-.04 STONES RIVER HUNTER EDUCATION CENTER AND CHEATHAM WMA FIRING RANGE.

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

CHAPTER 1660-1-28

RULES AND REGULATIONS GOVERNING LICENSES, PERMITS AND FEES

AMENDMENT

1660-1-28-.04 Miscellaneous Licenses, Permits and Fees is hereby amended by changing the amount of the resident commercial fisher license (Type 101), the resident commercial helper license – fishing (Type 102) and the resident commercial musseler license (Type 105) from \$300.00 to \$200.00 so that, as amended, the rule shall read

:

RULEMAKING HEARINGS

(1) Licenses, permits and fees are set out as follows:

Type: Description:

06	Migratory Bird Permit (Harvest Inventory Permit)	\$1.00
101	Resident Commercial Fisher License	\$200.00
102	Resident Commercial Helper License - Fishing.....	\$200.00
103	Nonresident Commercial Fisher License	\$2,000.00
104	Nonresident Commercial Helper License - Fishing	\$2,000.00
105	Resident Commercial Musseler License	\$200.00
107	Nonresident Commercial Musseler License	\$2,000.00
108	Resident Commercial Roe Fish Permit – Supplemental... ..	\$1,000.00
109	Cultured Pearl License	\$1,000.00
110	Nonresident Commercial Roe Fish Permit, Supplemental	\$1,500.00
111	Resident Wholesale Roe Fish Permit	\$500.00
112	Nonresident Wholesale Roe Fish Dealer.....	\$1,000.00
113	Wholesale Fish Dealer’s License.....	\$500.00
115	Wholesale Mussel Dealer’s License	\$500.00
116	Nonresident Fish Dealer’s License	\$1,000.00
117	Falconry General Permit – Supplemental	\$60.00
118	Resident Fish Dealer’s License	\$50.00
120	Nonresident Trapping License	\$400.00
121	Resident/Non-resident Fur Buyer License	\$150.00
122	Falconry Apprentice Permit – Supplemental.....	\$60.00
123	Falconry Master Permit – Supplemental.....	\$60.00
124	Commercial Wildlife Preserve - Big Game Permit	\$300.00
125	Commercial Wildlife Preserve - Small Game Permit	\$150.00
141	Taxidermist Permit	\$100.00
149	Animal Importation Permit, One Shipment	\$25.00
150	Animal Importation Permit, Annual	\$200.00
160	Permanent Exhibitor Permit.....	\$1,000.00
161	Temporary Exhibitor Permit.....	\$250.00
166	Resident Senior Citizen’s Permanent License.....	\$10.00
167	Annual Senior Citizen’s Permit - Supplemental	\$40.00
170	Personal Possess Permit, Class I, One Animal,	\$150.00
171	Personal Possess Permit, Class I, Entire Facility,	\$1,500.00
172	Personal Possession Permit, Class II, One Animal	\$25.00
173	Personal Possession Permit, Class II, Entire Facility.....	\$250.00
174	Propagation Facility Permit, Small Game/Waterfowl.....	\$50.00
175	Propagation Facility Permit, Class II, Except Small Game/Waterfowl	\$250.00
176	Propagation Facility Permit, Class I.....	\$2,500.00
189	Resident Permanent Sport Combination Hunting and Fishing License - Permanent Wheelchair Restricted.....	\$10.00
190	Slat Basket Tag Permit.....	\$8.00
194	Replacement License or Permit – Cost for replacement of one license or permit in a single transaction	\$6.00
195	Replacement License or Permit	\$1.00
	– Cost for replacement of each additional license or permit in a single Type 194 transaction \$1.00	
197	Resident Permanent Sport Fishing License - Certified Blind	\$10.00

RULEMAKING HEARINGS

198 Resident Permanent Sport Combination Hunting and Fishing License (Sport Fishing and Hunting License) - Disabled Veterans	\$10.00
199 Resident Permanent Sport Fishing License – Persons Drawing Social Security Benefits Due to Mental Retardation	\$10.00
500 Hunter Education Replacement Card	\$6.00

Authority: T.C.A. §70-1-206.

CHAPTER 1660-2-6 RULES AND REGULATIONS GOVERNING UNIFORM WATERWAY MARKER SYSTEM

AMENDMENT

Rule 1660-2-6-.01(1) Navigation Aids and Regulatory Markers is amended by deleting paragraph (1) in its entirety and by replacing it with the following:

1660-2-6-.01 NAVIGATOIN AIDS AND REGULATORY MARKERS.

- (1) Lateral navigation markers of the U.S. Aids to Navigation System identify dangerous or controlled areas and guide vessel operators safely along waterways. Green cylinder-shaped buoys and red cone-shaped buoys are used in pairs on well-defined channels, including rivers or other relatively narrow waterways, to indicate that the navigation channel lies between the buoys and boats should pass between them. On irregularly defined channels, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel. They will be spaced at sufficiently close intervals to indicate that the channel lies between the buoys and boats should pass between them. A smaller version of the green cylinder-shaped buoys with a white top and the red cone-shaped buoys with a white top mark secondary channels and boats should pass between them. Red triangle signs and green square signs called daymarks are attached to structures such as posts in the water or on the bank also indicate the channel. Green buoys with a red stripe or red buoys with a green stripe are junction buoys and indicate two channels coming together.
 - (a) The green buoys mark the left side of the channel looking upstream. If they are numbered, they will show odd numbers. Numbers increase in an upstream direction.
 - (b) The red buoys mark the right side of the channel looking upstream. If they are numbered, they will show even numbers. Numbers increase in an upstream direction.
 - (c) Smaller green cylinder-shaped buoys with a white top mark the left side of the secondary channel looking upstream.
 - (d) Smaller red cone-shaped buoys with a white top mark the right side of the secondary channel looking upstream.
 - (e) The green daymarks mark the left side of the channel looking upstream. If they are numbered, the numbers are odd and indicate the mile marker.
 - (f) The red daymarks mark the right side of the channel looking upstream. If they are numbered, the numbers are even and indicate the mile marker.

RULEMAKING HEARINGS

- (g) Green buoys with a red horizontal stripe at the topside of the buoy indicate two channels coming together and the preferred channel is to the right of the buoy as you travel upstream.
- (h) Red buoys with a green horizontal stripe at the topside of the buoy indicate two channels coming together and the preferred channel is to the left of the buoy as you travel upstream.
- (i) Where used, lights on these buoys and daymarks are regularly flashing (30 flashes per minute), red lights on red buoys and red daymarks, and green lights on green buoys and green daymarks. A quick-flashing light (60 flashes per minute) has special significance as at sharp turns or sudden constructions in the channel or to mark wrecks or other navigation obstructions.

Rule 1660-2-6-.01(2) is amended by deleting subparagraphs (a), (b), and (c) in their entirety and replacing them with the following:

- (a) A red striped white buoy marks mid-channels and may be passed on either side.
- (b) A black striped white buoy indicates that an obstruction to navigation extends from the nearest shore to the buoy and boats must not pass between the buoy and the nearest shore.
- (c) Where used, lights on the buoys are quick-flashing (60 flashes per minute); red lights on red buoys or daymarks, green lights on green buoys or daymarks, and white lights on other buoys.

Authority: T.C.A. §§70-1-206, 69-9-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 21st day of April, 2005. (04-08)

WILDLIFE PROCLAMATION

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 05-01 PROCLAIMING BOGOTA WILDLIFE MANAGEMENT AREA

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Sections 70-1-302 and 70-5-101 thereof, the Tennessee Wildlife Resources Commission, hereby proclaims the area described below as a wildlife management area and hereafter to be known as Bogota Wildlife Management Area:

The lands and waters north of the Obion River, west of State Hwy. 78 and east of the Illinois Central Gulf Railroad in Dyer County purchased pursuant to the Wetlands Acquisition Act as posted. A more complete description may be found on file in the Tennessee Wildlife Resources Agency Office, Nashville, Tennessee.

Proclamation No.05-01 received and recorded this 5th day of April, 2005. (04-02)



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 April 1, 2005 and ending April 29, 2005.

RILEY C. DARNELL
Secretary of State