

TAR

TENNESSEE ADMINISTRATIVE REGISTER



September 15 , 2006
Volume 32, Number 9

RILEY C. DARNELL
Secretary of State

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

DEPARTMENT OF STATE NONDISCRIMINATION POLICY STATEMENT

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

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

PUBLIC INSPECTION OF DOCUMENTS

A certified copy of each document filed with the Department of State, Division of Publications is available for public inspection from 8 A.M. to 4:30 P.M., Monday through Friday. Copies of documents may be made at a cost of 25 cents per page and \$2 for the certification page, payable in advance if requested. The Division of Publications is located on the Eighth Floor, Snodgrass/Tennessee Tower, 312 Eighth Avenue North, Nashville, TN 37243 - 0310. Telephone inquiries may be made by calling (615) 741-2650, Tennessee Relay Center TDD 1-800-848-0298, Voice 1-800-848-0299.

Individuals with disabilities who wish to inspect these filings should contact the Division of Publications to discuss any auxiliary aids or services needed to facilitate such inspection. Such contact may be made in person, by writing, telephonically or otherwise and should be made at least ten (10) days in advance of the date such party intends to make such inspection to allow time for the Division of Publications to provide such aid or service.

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 Financial Institutions, formula rate of interest and notices of review cycles); (2) emergency rules; (3) proposed rules; (4) public necessity rules; (5) notices of rulemaking hearings and (6) proclamations of the Wildlife Resources Commission.

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

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

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

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

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

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

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

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

**SEPTEMBER 2006 TAR
TABLE OF CONTENTS**

ANNOUNCEMENTS

Environment and Conservation, Department of
 Petitions for Declaratory Orders/Notice of hearing 6-9

Financial Institutions, Department of
 Announcement of Formula Rate of Interest 10
 Announcement of Maximum Effective Rate of interest..... 10

Government Operations Committee
 Announcement of Public Hearing 11-18

Health Services and Development Agency
 Notice of Beginning of Review Cycle..... 19

Indian Affairs, Commission of
 Notice of Withdrawal of Rules 20

Massage Licensure Board
 Notice of Withdrawal of Rules 21

EMERGENCY RULES

Emergency Rules Now In Effect 22

Agriculture, Department of..... 23-24

PROPOSED RULES

Agriculture, Department of..... 25-26

Safety, Department of..... 27-36

PUBLIC NECESSITY RULES

Public Necessity Rules Now in Effect 37

Ethics Commission 38-50

Transportation, Department of 51-53

RULEMAKING HEARINGS

Accountancy, Board of..... 54

Chiropractic Examiners, Board of 55-56

Environment and Conservation, Department of..... 57-71

Ethics Commission 72-82

Health, Department of 83-85

Human Services, Department of 86-89

Indian Affairs, Commission of 90-96

Massage Licensure Board 97-100

Occupational and Physical Therapy Examiners, Board of 101-111

Osteopathic Examination, Board of..... 112

Tennessee Regulatory Authority 113-117

Social Worker Certification and Licensure, Board of 118-122

Transportation, Department of 123-140

Veterinary Medical Examiners, Board of 141-142

Wildlife Resources Commission 143-144

**SEPTEMBER 2006 TAR
TABLE OF CONTENTS, CONTINUED**

WILDLIFE RESOURCES COMMISSION

Proclamation 06-21 Temporary Suspension of No-Wake Zone on Percy Priest Lake..... 145

CERTIFICATE OF APPROVAL 146

ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

PETITION FOR DECLARATORY ORDER NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

1. **Petitioner's Name:** Tennessee Clean Water Network
2. **Petitioner's Attorneys:** Renee Victoria Hoyos
Address: 706 walnut Street
Knoxville, TN 37902
Telephone Number: (865)-522-7007

3. **Background:**

The Department of Environment and Conservation processed permit application NRS05.186 by Canadian National Railway. This project involves placing fill material under a railroad trestle owned by Canadian National Railway. It was determined that the proposed action occurred on Tier 2 waters and therefore an Economic and Social justification for the degradation must be made pursuant to Administrative Rules 1200-4-3-.06. The Department determined that the degradation was justified and the permit application could be processed.

4. **Summary of the relief requested:**

The Petitioners has requested a ruling from the Board that the economic and social determination was not justified and that the Board reverse the TDEC's decision.

The Board will convene a contested case hearing in this matter on September 26-27, 2006

Pursuant to Administrative Rule 1200-4-3-.06 Canadian National Railway is a necessary party.

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests. Copies must go to all interested parties.

Administrative Procedures Docket Number 04.30-092779A

Your petition must be filed with: Tennessee Secretary of State
Administrative Procedures Division
312 8th Avenue, North
8th Floor, William R. Snodgrass Bldg.
Nashville, TN 37243

ANNOUNCEMENTS

Copies must also go to:

Patrick N. Parker
Assistant General Counsel
Tennessee Dept. of Environment & Conservation
Office of General Counsel
401 Church Street
20th Floor L&C Tower
Nashville, TN 37243-1548

James Weaver
Waller, Lansden, Dortch, and Davis
Nashville City Center
511 Union Street, Suite 2700
Nashville TN 38212
Attorney for Canadian National Railway

ANNOUNCEMENTS

DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400

PETITION FOR DECLARATORY ORDER
NOTICE OF HEARING

(As required Under T.C.A. §4-5-224)

1. **Petitioner's Name:** Mark Grimsley, Jimmy Dickey, Laura Bradford Dickey

2. **Petitioner's Attorneys:** Pro/Se
Address: Jimmy Dickey
4106 Pine Street
Chattanooga, TN 37406

Laura Wayne Dickey
2716 Forrest Road
Chattanooga, TN 37406

Mark Grimsely
2442 Maple Street
Chattanooga, TN 37406

Telephone Number: (423)-892-5237

3. **Background:**

On January 10, 2005, the Department of Environment and Conservation issued an Aquatic Resource Alteration Permit (ARAP) to Waterhaven Development LLC for the construction of 78 boat slips along the left descending bank of Chicamauga Creek.. The development will involve the construction of 78 boat slips which would be anchored by a single pair of poles in the stream as opposed to the two pairs per set of slips in the original application.

4. **Summary of the relief requested:**

The Petitioners have requested a ruling from the Board that this Permit violates the Tennessee Water Quality Control Act, T.C.A. §69-3-101 *et seq* in that the project is allegedly located on South Chicamauga Creek which is on the State's 303(d) list for impaired waters. Petitioner also raises concerns about the Division considering comments after the close of the comment period and an overall degradation of water quality..

The Board will convene a contested case hearing in this matter on October 24, 2006.

If you are interested in intervening or participating in this case in any way or think that you may be affected by the possible outcome of this case, you must file a Petition to Intervene, stating your specific interest(s) in the case and your legal position/argument regarding those interests.

ANNOUNCEMENTS

Your petition must be filed with:

Tennessee Secretary of State
Administrative Procedures Division
312 8th Avenue, North
8th Floor, William R. Snodgrass Bldg.
Nashville, TN 37243

Copies must also go to:

Devin M. Wells
Tennessee Dept. of Environment & Conservation
Office of General Counsel
401 Church Street
20th Floor L&C Tower
Nashville, TN 37243-1548

Jimmy Dickey
4106 Pine Street
Chattanooga, TN 37406

Laura Wayne Dickey
2716 Forrest Road
Chattanooga, TN 37406

Mark Grimsely
2442 Maple Street
Chattanooga, TN 37406

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 12.25%.

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.

Greg Gonzales

DEPARTMENT OF FINANCIAL INSTITUTIONS – 0180

ANNOUNCEMENT OF MAXIMUM EFFECTIVE RATE OF INTEREST

The Federal National Mortgage Association has discontinued its free market auction system for commitments to purchase conventional home mortgages. Therefore, the Commissioner of Financial Institutions hereby announces that the maximum effective rate of interest per annum for home loans as set by the General Assembly in 1987, Public Chapter 291, for the month of October 2006 is 8.99 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 4.99 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.

Greg Gonzales

For more information on interest rates, go to <http://www.tennessee.gov/tdfi/rates/index.html>

ANNOUNCEMENTS

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) 741-3072.

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-01-06	Aug 1, 2006	1680 Transportation Environmental Division	Public Necessity Rules	Amendments	<i>Chapter 1680-2-3 Control of Outdoor Advertising</i> 1680-2-3-.02 Definitions 1680-2-3-.04 Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways	John H. Reinbold General Counsel Transportation Suite 300 Jolk Bldg 505 Deaderick St Nashville TN 37243 (615) 741-2941	Oct 1, 2006 through Mar 15, 2006
08-02-06	Aug 3, 2006	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	<i>Chapter 1660-2-4 Rules and Regulations Governing Reporting of Boating Accidents</i> 1660-2-4-.01 Accident Report	Sheryl Holtam TWRA P.O. Box 40747 Nashville TN 37204 (615) 781-6606	Oct 17, 2006
08-05-06	Aug 9, 2006	0785 Commission of Indian Affairs	Notice of Withdrawal of Rules		<i>0785-1 Recognition Criteria For Native American Indians</i>	Doris Tate Trevino, Chairperson Tennessee Commission of Indian Affairs	Originally filed June 19, 2006; originally effective Sept 2, 2006
08-06-06	Aug 9, 2006	1340 Safety Driver Control Division	Proposed Rules	Amendments	<i>Chapter 1340-1-11 Tennessee Motorcycle Rider Education Program</i> 1340-1-11-.01 Purpose 1340-1-11-.02 Definitions 1340-1-11-.03 Rider Training Course 1340-1-11-.04 Rider Coach Qualifications 1340-1-11-.05 Rider Coach Trainer Qualifications 1340-1-11-.06 Sponsor Requirements 1340-1-11-.07 Course Site Requirements. 1340-1-11-.08 Advisory Committee 1340-1-11-.09 Tuition Fees 1340-1-11-.10 General Regulations 1340-1-11-.11 Suspension, Revocation or Denial of Certificates 1340-1-11-.12 Certificate of Completion for Students	John Milliken Safety 275 Stewarts Ferry Pike Nashville, TN 37214 615-232-2901	Dec 29, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-07-06	Aug 9, 2006	0580 Tennessee Ethics Commission	Proposed Rules	New Rules	<i>Chapter 0580-1 Rules Pertaining to Lobbyists and Employers of Lobbyists</i> 0580-1-1-.01 Definitions 0580-1-1-.02 Lobbyist Registration 0580-1-1-.03 Employer of Lobbyist Registration 0580-1-1-.04 Volunteer Lobbyist and Employer Registration 0580-1-1-.05 Filing of Employer Disclosure Reports 0580-1-1-.06 Filing of Lobbyist Disclosure Reports 0580-1-1-.07 Informal Show Cause Hearings 0580-1-1-.08 Issuance and Appeal of Civil Penalty Assessment Orders 0580-1-1-.09 Reconsideration of Issuance of Civil Penalty Assessment Orders 0580-1-1-.10 Issuance of Advisory Opinions by Commission 0580-1-1-.11 Audits	Janet M. Kleinfelter Office of Attorney General 425 5th Avenue North Nashville, TN 37243 615-741-7403	Dec 29, 2006
08-08-06	Aug 9, 2006	0580 Tennessee Ethics Commission	Public Necessity Rules	New Rules	<i>Chapter 0580-1 Rules Pertaining to Lobbyists and Employers of Lobbyists</i> 0580-1-1-.01 Definitions 0580-1-1-.02 Lobbyist Registration 0580-1-1-.03 Employer of Lobbyist Registration 0580-1-1-.04 Volunteer Lobbyist and Employer Registration 0580-1-1-.05 Filing of Employer Disclosure Reports 0580-1-1-.06 Filing of Lobbyist Disclosure Reports 0580-1-1-.07 Informal Show Cause Hearings 0580-1-1-.08 Issuance and Appeal of Civil Penalty Assessment Orders 0580-1-1-.09 Reconsideration of Issuance of Civil Penalty Assessment Orders 0580-1-1-.10 Issuance of Advisory Opinions by Commission 0580-1-1-.11 Audits	Janet M. Kleinfelter Office of Attorney General 425 5th Avenue North Nashville, TN 37243 615-741-7403	Aug 9, 2006 through Jan 21, 2006
08-10-06	Aug 14, 2006	1200 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-13-13 TennCare Medicaid</i> 1200-13-13-.03 Enrollment, Disenrollment, Re-enrollment and Reassignment	George Woods Bureau of TennCare 310 Great Circle Road Nashville, TN 37243 (615) 507-6446	Oct 28, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-11-06	Aug 14, 2006	1200 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-13-13 TennCare Medicaid</i> 1200-13-13-.11 Appeal Of Adverse Actions Affecting TennCare Services Or Benefits	George Woods Bureau of TennCare 310 Great Circle Road Nashville, TN 37243 (615) 507-6446	Oct 28, 2006
08-12-06	Aug 14, 2006	1200 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-13-14 TennCare Standard</i> 1200-13-14-.03 Enrollment, Disenrollment, Re-enrollment and Reassignment	George Woods Bureau of TennCare 310 Great Circle Road Nashville, TN 37243 (615) 507-6446	Oct 28, 2006
08-13-06	Aug 14, 2006	1200 Finance and Administration Bureau of TennCare	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-13-14 TennCare Medicaid</i> 1200-13-14-.11 Appeal Of Adverse Actions Affecting TennCare Services Or Benefits	George Woods Bureau of TennCare 310 Great Circle Road Nashville, TN 37243 (615) 507-6446	Oct 28, 2006
08-16-06	Aug 10, 2006	0400 Environment And Conservation Bureau Of Environment Division Of Air Pollution Control	Rulemaking Hearing Rules	New Rule	<i>Chapter 1200-3-27 CAIR NOX Annual Trading Program</i> 1200-3-27-.10 CAIR NO _x Annual Trading Program	Mr. Travis Blake Air Pollution Control 9th Floor L & C Annex 401 Church St Nashville TN 37243-1531 (615) 532-0617	Oct 24, 2006
08-17-06	Aug 10, 2006	0400 Environment And Conservation Bureau Of Environment Division Of Air Pollution Control	Rulemaking Hearing Rules	New Rule	<i>Chapter 1200-3-27 CAIR NOX Annual Trading Program</i> 1200-3-27-.10 CAIR NO _x Ozone Season Trading Program	Mr. Travis Blake Air Pollution Control 9th Floor L & C Annex 401 Church St Nashville TN 37243-1531 (615) 532-0617	Oct 24, 2006
08-18-06	Aug 10, 2006	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	New Rule	<i>Chapter 1200-3-14 CAIR SO2 Annual Trading Program</i> 1200-3-14-.04 CAIR SO2 Annual Trading Program	Mr. Travis Blake Air Pollution Control 9th Floor L & C Annex 401 Church St Nashville TN 37243-1531 (615) 532-0617	Oct 24, 2006
08-19-06	Aug 15, 2006	0400 Environment and Conservation Bureau of Environment Division of Air Pollution Control	Rulemaking Hearing Rules	Amendment	<i>Chapter 1200-3-3 Ambient Air Quality Standards</i> 1200-3-3-.03 Tennessee's Ambient Air Quality Standards	Jeryl W. Stewart Air Pollution Control 9th FI L & C Annex 401 Church St Nashville TN 37243-1531 (615) 532-0605	Oct 29, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-22-06	Aug 15, 2006	0080 Accountancy	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0020-1 Board of Accountancy, Licensing and Registration Requirements</i></p> <p>0020-1-.04 Fees 0020-1-.05 Applications 0020-1-.06 Examinations 0020-1-.07 Cheating 0020-1-.08 Renewal of Licenses 0020-1-.10 Reinstatement of Revoked or Suspended Licenses 0020-1-.11 Application and Renewal of CPA and PA Firm Permits 0020-1-.12 Notification of Firm Changes 0020-1-.13 Reciprocity and Substantial Equivalency</p> <p><i>Chapter 0020-2 Educational and Experience Requirements</i></p> <p>0020-2-.01 Recognized Colleges and Universities 0020-2-.02 Education 0020-2-.03 Experience</p> <p><i>Chapter 0020-3 Rules of Professional Conduct</i></p> <p>0020-3-.02 Applicability 0020-3-.03 Independence 0020-3-.06 Disclosures 0020-3-.07 Competence 0020-3-.08 Compliance with Standards 0020-3-.09 Accounting Principles 0020-3-.11 Records 0020-3-.12 Discreditable Acts 0020-3-.15 Firms 0020-3-.16 Notification to the Board</p> <p><i>Chapter 0020-4 Disciplinary Action and Civil Penalties</i></p> <p>0020-4-.02 Civil Penalties 0020-4-.03 Grounds for Discipline Against Licensees</p>	Christy A. Allen Commerce and Insurance Office of Legal Counsel 500 J Robertson Pkwy Davy Crockett Twr 5th Fl Nashville TN 37243 (615) 741-3072	Oct 29, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-22-06, cont.					<p><i>Chapter 0020-5</i> <i>Continuing Education</i> 0020-5-.02 Purpose 0020-5-.03 Basic Requirements 0020-5-.04 Qualifying Programs 0020-5-.05 Sponsors 0020-5-.07 Extension of Time</p> <p><i>Chapter 0020-6</i> <i>Peer Review Program</i> 0020-6-.02 Purpose 0020-6-.03 Review Committee 0020-6-.04 Basic Requirements</p>		
08-23-06	Aug 16, 2006	1200 Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-8-12</i> <i>Trauma Centers</i> 1200-8-12-.03 Definitions 1200-8-12-.04 Requirements</p> <p><i>Chapter 1200-8-30</i> <i>Standards for Pediatric Emergency Care Facilities</i> 1200-8-30-.01 Definitions 1200-8-30-.03 Administration</p>	Lucy Bond Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Oct 30, 2006
08-25-06	Aug 18, 2006	1150 Occupational and Physical Therapy Examiners Committee of Occupational Therapy	Rulemaking Hearing Rules	Amendments New Rule	<p><i>Chapter 1150-2</i> <i>General Rules Governing the Practice of Occupational Therapy</i> 1150-2-.03 Necessity of Licensure 1150-2-.06 Fees</p> <p>1150-2-.13 Advertising</p>	Nicole Armstrong Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 1, 2006
08-26-06	Aug 18, 2006	1150 Occupational and Physical Therapy Examiners Committee of Occupational Therapy	Rulemaking Hearing Rules	Amendments New Rule	<p><i>Chapter 1150-1</i> <i>General Rules Governing the Practice of Physical Therapy</i> 1150-1-.12 Continuing Competence</p> <p>1150-1-.13 Advertising</p>	Nicole Armstrong Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 1, 2006
08-27-06	Aug 18, 2006	1365 Social Worker Certification and Licensure	Rulemaking Hearing Rules	Amendments New Rule	<p><i>Chapter 1365-1</i> <i>General Rules and Regulations</i> 1365-1-.03 Necessity of License</p> <p>1365-1-.23 Advertising</p>	Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 1, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-28-06	Aug 18, 2006	0540 Electrolysis Examiners	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 0540-1</i> <i>General Rules Governing Electrology, Electrologists, and Electrology Instructors</i> 0540-1-.04 Qualifications for Licensure 0540-1-.05 Procedures for Licensure 0540-1-.06 Fees 0540-1-.07 Application Review, Approval, and Denial</p> <p><i>Chapter 0540-3</i> <i>General Rules Governing Schools of Electrology</i> 0540-3-.04 Standards for License</p>	Mary J. Presley Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 1, 2006
08-30-06	Aug 23, 2006	1200 Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Repeal	<p><i>Chapter 1200-8-5</i> <i>Behavioral Health Units in Nursing Facilities</i> 1200-8-5-.01 Special Services</p>	Lucy Bond Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 6, 2006
08-32-06	Aug 23, 2006	1200 Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<p><i>Chapter 1200-8-7</i> <i>Residential Home for Aged Quality Enabling Program</i> 1200-8-7-.01 Purpose 1200-8-7-.03 Participation of Providers 1200-8-7-.05 Reimbursement 1200-8-7-.06 Termination from Participation</p>	Lucy Bond Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 6, 2006
08-33-06	Aug 24, 2006	1200 Health Bureau of Health Licensure and Regulation Division of Emergency Medical Services	Rulemaking Hearing Rules	New Rules	<p><i>Chapter 1200-12-4</i> <i>Emergency Medical Technician or Emergency Medical Technician-Paramedic in Hospital Emergency Services</i> 1200-12-4-.01 Responsibilities in Hospital Emergency Services 1200-12-4-.02 Each hospital to maintain evidence of training</p>	Juanita Presley Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 7, 2006
08-34-06	Aug 24, 2006	1200 Health Bureau of Health Licensure and Regulation Division of Emergency Medical Services	Rulemaking Hearing Rules	New Rules	<p><i>Chapter 1200-12-5</i> <i>Critical Care Paramedic</i> 1200-12-5-.01 Preamble and Endorsement 1200-12-5-.02 Scope of Practice for Critical Care Paramedic. 1200-12-5-.03 Critical Care Paramedic Requirements. 1200-12-5-.04 Critical Care Paramedic Training Programs</p>	Juanita Presley Health OGC 220 Athens Way, Suite 210 Plaza 1 Metrocenter Nashville, TN 37243 615-532-7156	Nov 7, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-38-06	Aug 25, 2006	1240 Human Services Adult and Family Services Division	Rulemaking Hearing Rules	Amendments	<i>Chapter 1240-1-50</i> <i>Financial Eligibility Requirements Families First Program</i> 1240-1-50-.20 Standard of Need/Income	Phyllis Simpson Assistant General Counsel Citizens Plaza Bldg 15th Fl 400 Deaderick St Nashville TN 37248-0006 (615) 313-4731	Nov 8, 2006
08-40-06	Aug 29, 2006	0400 Environment and Conservation Solid Waste Management	Notice of Rulemaking Hearing	Amendments	<i>Chapter 1200-1-11</i> <i>Hazardous Waste Management</i> 1200-1-11-.01 Hazardous Waste Management System: General, 1200-1-11-.02 Identification and Listing of Hazardous Waste Disposers, and Certain Generators of Hazardous 1200-1-11-.03 Notification Requirements and Standards Wastes and for Certain Used Oil Facilities or Applicable to Generators of Hazardous Wastes Transporters 1200-1-11-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Hazardous Wastes and Specific Types of Transporters of Hazardous Waste Hazardous Waste Management Facilities 1200-1-11-.05 Interim Status Standards for Owners and 1200-1-11-.06 Standards for Owners and Operators of Hazardous [40 CFR Part 273] Waste Treatment, Storage, and Disposal Facilities 1200-1-11-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities 1200-1-11-.08 Fee System for Transporters, Storer, Treater 1200-1-11-.09 Standards for the Management of Specific Operators 1200-1-11-.10 Land Disposal Restrictions of Existing Hazardous Waste Treatment, Storage 1200-1-11-.11 Standards for the Management of Used Oil and Disposal Facilities 1200-1-11-.12 Standards for Universal Waste Management	Mr. Gerald Ingram 5th Fl L & C Twr 401 Church St Nashville TN 37243-1535 615-532-0850 or FAX 615-532-0886	Hearing date: Oct 19, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
08-42-06	Aug 29, 2006	1660 TWRA	Proclamation		Proclamation 06-21 Temporary Suspension Of No-Wake Zone On Percy Priest Lake	Sheryl Holtam TWRA P.O.B 40747 Nashville, TN 37204 (615)781-6606	Aug 24, 2006
08-43-06	Aug 30, 2006	0080 Agriculture Division of Animal Industries	Emergency Rules	Amendments	<i>Chapter 0080-2-1 Health Requirements for Admission and Transportation of Livestock and Poultry</i> 0080-2-1-.08 Sheep 0080-2-1-.09 Goats	Phyllis Childs General Counsel Department of Agriculture P. O. Box 40627 Nashville TN 37204 615-837-5280	Aug 30, through Feb 11, 2006
08-44-06	Aug 30, 2006	0080 Agriculture Division of Animal Industries	Proposed Rules	Amendments	<i>Chapter 0080-2-1 Health Requirements for Admission and Transportation of Livestock and Poultry</i> 0080-2-1-.08 Sheep 0080-2-1-.09 Goats	Phyllis Childs General Counsel Department of Agriculture P. O. Box 40627 Nashville TN 37204 615-837-5280	Dec 29, 2006
08-45-06	Aug 28, 2006	0580 Ethics Commission	Petition for Rulemaking Hearing		Bar Center	Allan Ramsaur	-----

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.tennessee.gov/hlda/health_plan_agency_meet.html for the latest Notice of Beginning of Review Cycle.

RULEMAKING HEARINGS

TENNESSEE COMMISSION OF INDIAN AFFAIRS - 0785

NOTICE OF WITHDRAWAL OF RULES

The Tennessee Commission of Indian Affairs hereby gives notice of withdrawal of Rule Chapter 0785-1 Recognition Criteria For Native American Indians filed with the Department of State on the 19th day of June, 2006, to have become effective on the 2nd day of September, 2006.

The notice of withdrawal of rules set out herein was properly filed in the Department of State on the 9th day of August, 2006. (08-05-06)

ANNOUNCEMENTS

TENNESSEE MASSAGE LICENSURE BOARD - 0870

NOTICE OF WITHDRAWAL OF RULES

The Tennessee Massage Licensure Board hereby gives notice of withdrawal of amendment to part (4) (b) 1. of rule 0870-1-.12, filed with the Department of State on the 16th day of June, 2006 to have become effective on the 30th day of August, 2006.

The notice of withdrawal of rules was properly filed in the Department of State on the 15th day of August, 2006. (08-21-06)

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

For text of emergency rules filed prior to July, see T.A.R. cited,

<http://www.state.tn.us/sos/pub/tar/index.htm>

or

visit the Department of State's website,

http://www.state.tn.us/sos/rules/emergency/emergency_index.htm

- 0080 - Department of Agriculture - Division of Regulatory Services - Emergency rules amending standards for biodiesel and biodiesel blends conveyed for consumption in Tennessee, Chapter 0080-5-12 Kerosene and Motor Fuels Quality Inspection Regulations, 5 T.A.R., Volume 32, Number 5 (May 15, 2006). Filed April 27, 2006; effective through October 9, 2006. (04-33)
- 0800 - Department of Labor - Division of Workers' Compensation - Emergency Rules amending the medical fee schedule and related system, Chapter 0800-2-18 Medical Fee Schedule, 5 T.A.R., Volume 32, Number 5 (May 15, 2006). Filed April 27, 2006; effective through October 9, 2006. (04-29)
- 0800 - Department of Labor - Division of Workers' Compensation - Emergency Rule amending 0800-2-18-.07 Ambulatory Surgical Centers and Outpatient Hospital Care (Including Emergency Room Facility Charges), Chapter 0800-2-18 Medical Fee Schedule, 5 T.A.R., Volume 32, Number 5 (May 15, 2006). Filed April 27, 2006; effective through October 9, 2006. (04-31)

PROPOSED RULES

THE TENNESSEE DEPARTMENT OF AGRICULTURE -0080 DIVISION OF REGULATORY SERVICES

CHAPTER 0080-2-1 HEALTH REQUIREMENTS FOR ADMISSION AND TRANSPORTATION OF LIVESTOCK AND POULTRY

STATEMENT OF NECESSITY REQUIRING EMERGENCY RULES

Pursuant to Tennessee Code Annotated §4-5-208, the Tennessee Department of Agriculture is promulgating emergency rules in order to protect the small ruminant industry from the threat of Scrapie. Scrapie is a fatal, degenerative disease affecting the central nervous system of sheep and goats. It is among a number of diseases classified as transmissible spongiform encephalopathies (TSE).

The Tennessee Department of Agriculture, after research and communication with United States Department of Agriculture, has determined that there is a potential for a direct threat to animal health and an immediate impact to the economic interests of Tennessee necessitating the implementation of the following emergency rules. Tennessee is currently second in the nation in numbers of goats. Goat production is a significant growth industry for Tennessee agriculture. These emergency rules will protect the small ruminant industry and ensure the ability to continue to market these animals interstate.

For copies of the entire text of the emergency rule, contact: Dr. Ronald B. Wilson, State Veterinarian, Department of Agriculture, P. O. Box 40627, Nashville, Tennessee, 37204, 615-837-5120.

The text of the proposed emergency rule and amendments are as follows:

AMENDMENTS

Rule 0080-2-1-.08 is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the paragraph shall read:

0080-2-1-.08 SHEEP.

- (1) All sheep imported into or through Tennessee shall be accompanied by an official health certificate and be in compliance with 0080-2-1-.02, and Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (2) All sheep that move within the state, with the exception of wethers under the age of 18 months that are produced for slaughter only, including for change of ownership, shows, fairs, expositions or slaughter shall be permanently, individually identified by a method approved in Title 9, Code of Federal Regulations, Part 79.1 through 79.4.

Authority: T.C.A. §§4-3-203 and 44-2-102.

PROPOSED RULES

Rule 0080-2-1-.09 is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the paragraph shall read:

0080-2-1-.09 GOATS.

- (1) Goats imported into or through Tennessee shall be accompanied by an official health certificate and be in compliance with 0080-2-1-.02, and Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (2) Goats imported into Tennessee for immediate slaughter to an approved slaughter establishment or to an approved livestock market for sale to a slaughter establishment shall only be required to have a transportation document and be in compliance with Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (3) All registered breeding goats, goats that have been commingled with sheep, goats for exhibition and dairy goats that move within the state, including for change of ownership, shows, fairs, expositions or slaughter shall be permanently, individually identified by a method approved in Title 9, Code of Federal Regulations, Part 79.1 through 79.4.

Authority: *T.C.A. §§4-3-203 and 44-2-102.*

The emergency rules set out herein were properly filed in the Department of State on the 30th day of August, 2006, and will be effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the 11th day of February, 2007. (08-43-06)

PROPOSED RULES

DEPARTMENT OF AGRICULTURE - 0080 DIVISION OF REGULATORY SERVICES

CHAPTER 0080-2-1 HEALTH REQUIREMENTS FOR ADMISSION AND TRANSPORTATION OF LIVESTOCK AND POULTRY

Presented herein are proposed amendments of Division of Regulatory Services, Department of Agriculture submitted pursuant to Tennessee Code Annotated §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Division of Regulatory Services, Department of Agriculture to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Agriculture, 440 Hogan Road, Nashville, Tennessee 37220, and the Department of State, 8th Floor, William R Snodgrass Tower, 312 8th Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For a copy of the entire text of the proposed amendments, contact: Dr. Ronald B. Wilson, State Veterinarian, Department of Agriculture, P. O. Box 40627, Nashville, Tennessee, 37204, 615-837-5120.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 0080-2-1-.08 is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the paragraph shall read:

0080-2-1-.08 SHEEP.

- (1) All sheep imported into or through Tennessee shall be accompanied by an official health certificate and be in compliance with 0080-2-1-.02, and Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (2) All sheep that move within the state, with the exception of wethers under the age of 18 months that are produced for slaughter only, including for change of ownership, shows, fairs, expositions or slaughter shall be permanently, individually identified by a method approved in Title 9, Code of Federal Regulations, Part 79.1 through 79.4.

Authority: *T.C.A. §§4-3-203 and 44-2-102.*

PROPOSED RULES

Rule 0080-2-1-.09 is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the paragraph shall read:

0080-2-1-.09 GOATS.

- (1) Goats imported into or through Tennessee shall be accompanied by an official health certificate and be in compliance with 0080-2-1-.02, and Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (2) Goats imported into Tennessee for immediate slaughter to an approved slaughter establishment or to an approved livestock market for sale to a slaughter establishment shall only be required to have a transportation document and be in compliance with Title 9, Code of Federal Regulations, Part 79.1 through 79.4.
- (3) All registered breeding goats, goats that have been commingled with sheep, goats for exhibition and dairy goats that move within the state, including for change of ownership, shows, fairs, expositions or slaughter shall be permanently, individually identified by a method approved in Title 9, Code of Federal Regulations, Part 79.1 through 79.4.

Authority: *T.C.A. §§4-3-203 and 44-2-102.*

The proposed rules set out herein were properly filed in the Department of State on the 30th day of August, 2006, 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 be effective on the 29th day of December, 2006. (08-44-06)

PROPOSED RULES

THE TENNESSEE DEPARTMENT OF SAFETY - 1340 DRIVER CONTROL DIVISION

CHAPTER 1340-1-11 TENNESSEE MOTORCYCLE RIDER EDUCATION PROGRAM

Presented herein are proposed amendments of the Driver Control Division, 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 rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Safety, 1150 Foster Avenue, Nashville, TN 37249, and in the Department of State, 8th Floor, Tennessee Tower, William Snodgrass Building, 312 8th Avenue North, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the rule, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments, contact: Jason Hunnicutt, Staff Attorney, Tennessee Department of Safety, 1150 Foster Avenue, Nashville, TN 37249, 615-251-5277.

The text of the proposed amendments is as follows:

AMENDMENTS

Rule 1340-1-11 Tennessee Motorcycle Rider Education Program is amended by deleting the rules in their entirety and substituting the following language so that as amended the rules shall read:

1340-1-11-.01 PURPOSE. To establish uniform standards and system for administering a Motorcycle Rider Education Program, as defined herein, under the provisions of T.C.A. Title 55, Chapter 51.

Authority: T.C.A. §55-51-102.

1340-1-11-.02 DEFINITIONS.

- (1) Rider Coach Trainer. A licensed motorcycle operator who meets the standards established by the Department of Safety to qualify to train and oversee Rider Coaches for the Motorcycle Rider Education Program.
- (2) Commissioner. The Commissioner of the Tennessee Department of Safety.
- (3) Director. The Director of the Driver Control Division.
- (4) Department. The Tennessee Department of Safety.
- (5) Motorcycle Rider Education Program. The motorcycle training and information disbursement plan created in T.C.A. §55-51-102.
- (6) Motorcycle Rider Safety Fund. The restricted receipts accounts created in T.C.A. §55-51-104 to be applied toward the costs of administering the Motorcycle Rider Education Program.

PROPOSED RULES

- (7) Program Coordinator. The person designated by the director to plan, organize and administer the Motorcycle Rider Education Program as provided in T.C.A. §55-51-102(b).
- (8) Rider Training Course. A motorcycle rider education curriculum and delivery system approved by the Department as meeting standards designed to develop and instill knowledge, attitudes, habits and skills necessary for the safe operation of a motorcycle.
- (9) Training Specialist. The person(s) designated by the Director to assist in establishing rider training courses throughout the State, support and implement program and funding guidelines and supervise instructors and other persons as necessary.
- (10) Rider Coach. A licensed motorcycle operator who meets the standards as set forth in T.C.A. §55-51-103, and additional qualifications established by the Department.
- (11) Advisory Committee. A committee consisting of five (5) members, including a chairman, appointed by the Commissioner to assist the development of the Motorcycle Rider Education Program as provided for in T.C.A. §55-51-105.
- (12) Driving Range. A practice area meeting the guidelines set forth by the Department set aside for the operation of motorcycles as part of the Motorcycle Rider Education Program.
- (13) Sponsor. Any public or private agency, organization, school, partnership, corporation, or individual certified by the Department to provide motorcycle education courses.
- (14) Examiner Instructor. An instructor who teaches a minimum of five (5) courses each calendar year and who meets the evaluation criteria established by the Program Coordinator for issuing student Certificates of Completion.

Authority: T.C.A. §§55-51-101, 55-51-102, 55-51-103 and 55-51-105.

1340-1-11-.03 RIDER TRAINING COURSE.

- (1) The rider training course will include a minimum of 5 hours of classroom instruction and a minimum of 10 hours of on-cycle instruction.
- (2) The rider training course shall be taught by a Department certified instructor(s).
- (3) The rider training course shall be open to all residents of the State who hold a current valid Tennessee driver license for any classification, or who are eligible for a Tennessee motorcycle learner permit (Class P-M) or motorcycle driver license (Class M).
- (4) The rider training course curriculum shall be the same as that used by the Motorcycle Safety Foundation or its equivalent.
- (5) The rider training course shall be limited to a class size not to exceed twenty-four (24) students.
- (6) There will be a minimum of one (1) Rider Coach per twenty-four (24) students during classroom instruction.

PROPOSED RULES

- (7) There will be a minimum of two (2) Rider Coaches per twelve (12) students during the driving range on-cycle instruction.
 - (a) An experienced Rider Coach may teach, alone, a maximum of eight (8) students on the driving range. An experienced instructor is defined as a certified Rider Coach who has taught, as primary instructor, a minimum of five (5) BRC rider courses, and approval documented by the Site Coordinator, prior to teaching alone.
- (8) There will be a maximum of twelve (12) students and two (2) Rider Coaches utilizing the driving range while on-cycle instruction is in progress.
- (9) Students under the age of fifteen (15) shall be limited to the use of motor-driven cycles with an engine displacement not to exceed one-hundred twenty-five cubic centimeters (125 cc), unless prior approval is given by the Program Coordinator.
- (10) Students fifteen (15) years-of-age or older, shall be limited to the use of a motorcycle with an engine displacement not to exceed three-hundred fifty cubic centimeters (350cc) unless prior approval is given by the Program Coordinator.
- (11) Students may at the discretion of the Rider Coach, use their own motorcycle, provided the motorcycle passes a safety inspection conducted by the Rider Coach. Proof of ownership and current insurance must be provided.
- (12) Each student enrolled in the rider training course shall be provided:
 - (a) State of Tennessee Driver's Manual.
- (13) Each student enrolled in the rider training course shall wear a minimum of the following protective gear while participating in the on-cycle phases of instruction.
 - (a) Approved helmet.
 1. Must meet U.S. Department of Transportation (DOT) and State standards. Helmets with labels from the American National Standards Institute (ANSI), or Snell Memorial Foundation give you added assurance of quality.
 2. Must fit snugly, all the way around.
 3. Shall be free of obvious defects such as cracks, loose padding, or frayed straps.
 - (b) Eye and face protection.
 1. Goggles, plastic faceshields, windshield or glasses containing impact resistant lenses shall be considered approved eye and face protection.
 - (c) Approved gloves.
 1. Gloves should be made of leather or heavy cloth and shall not be fingerless.
 - (d) Over-the-ankle footwear.

PROPOSED RULES

1. Boots or shoes shall be high enough to cover the anklebone and provide sturdy support and protection from burns and abrasions.
 2. Footwear shall have low heels (if any) and have a high traction sole.
- (e) Long-sleeved shirt/jacket.
1. Shall be made of leather or denim or a equivalent abrasive resistant material.
- (f) Long pants.
1. Shall be non-flared pants, made of leather or denim or a equivalent abrasive resistant material.

Authority: *T.C.A. §55-51-102 and 55-51-103.*

1340-1-11-.04 RIDER COACH QUALIFICATIONS.

- (1) The Rider Coach must meet the qualifications set out in T.C.A. § 55-51-103.
- (2) The Rider Coach must be at least eighteen (18) years of age.
- (3) The Rider Coach must hold a valid Tennessee motorcycle driver license (Class M) or motorcycle endorsement.
- (4) The Rider Coach must have at least two (2) years of recent motorcycle road-riding experience, encompassing strategies for dealing with street traffic and advanced turning and braking skills.
- (5) The Rider Coach driver's license must not have been suspended, cancelled, or revoked at any time during the preceding two (2) years.
- (6) The Rider Coach must not have any convictions for driving under the influence of alcohol or drugs or violation of the implied consent law during the preceding five (5) years.
- (7) The Rider Coach must not have a felony conviction of any type or any misdemeanor conviction for any crime involving fraud, deceit, or misrepresentation.
- (8) The Rider Coach must have completed the basic rider training course (BRC) at an M.R.E.P. approved site within twelve (12) months prior to beginning a Rider Coach Preparation (R.C.P.) workshop.
- (9) The Rider Coach shall demonstrate a knowledge of the course material, knowledge of safe motorcycle operating practices, and the necessary aptitude for instructing students.
- (10) When certified, the Rider Coach must have an instructor certificate that has been issued by the department.
- (11) The Rider Coach shall maintain and utilize the M.R.E.P. uniform (shirt) during course instruction and whenever representing the M.R.E.P.

PROPOSED RULES

- (12) The Rider Coach must be registered as a current active instructor by the Motorcycle Safety Foundation (MSF).
- (13) The Rider Coach shall teach a minimum of one M.R.E.P. approved course each calendar year.
- (14) The Rider Coach must attend state sponsored updates or equivalent with approval from the State Coordinator.
- (15) A candidate to become a Rider Coach must be interviewed prior to RCP by the state coordinator and rider coach trainer for the RCP.
- (16) A candidate to become a Rider Coach must be currently operating a motorcycle on a frequent basis.

Authority: T.C.A. §55-51-103.

1340-1-11-.05 RIDER COACH TRAINER QUALIFICATIONS.

- (1) The Rider Coach Trainer shall meet the qualifications set forth for instructors as stated in chapter 1340-1-11-.04.
- (2) The applicant for Rider Coach Trainer must have taught at least twelve (12) Department approved or Motorcycle Safety Foundation (MSF) rated courses prior to submitting the application for Rider Coach Trainer.
- (3) To be considered as a applicant for Rider Coach Trainer, the instructor must have taught at least five (5) years as a MSF or Department approved instructor.
- (4) The Rider Coach Trainer must also have an approved chief instructor certificate which has been issued by the Department.
- (5) The Rider Coach Trainer must be recommended by the Site Coordinator and have three letters of recommendation by current M.R.E.P. rider coaches.
- (6) The Rider Coach Trainer must also demonstrate the ability and quality to train and oversee instructors by Q.A.R process for the Motorcycle Rider Education Program.

Authority: T.C.A. §55-51-101.

1340-1-11-.06 SPONSOR REQUIREMENTS

- (1) Any public or private agency, organization, school, partnership, corporation or individual that agrees to comply with the rules set forth herein may apply for sponsorship certification.
- (2) Sponsors agree to conduct rider training courses that meet or exceed Department standards.
- (3) Sponsors must use only Department certified instructors.

PROPOSED RULES

- (4) Sponsors must obtain and maintain adequate insurance coverage on the students, all equipment, instructors and the sponsor, with a minimum policy combined single limit of one (1) million dollars. Included in this is liability insurance, motorcycle damage coverage, uninsured motorists coverage, and medical payments coverage.
 - (a) The Tennessee Department of Safety will be named as additional insured and shall be held harmless in any litigation.
 - (b) Proof of said insurance must be presented to the Program Coordinator prior to sponsor certification.
- (5) Sponsors shall be responsible for all phases of the rider training course including, but not limited to:
 - (a) Assuring all departmental rules and regulations are complied with;
 - (b) Maintaining accurate records of all program cost, student participation, accident and incident reports and providing these records to the Program Coordinator for inspection upon request;
 - (c) Securing all course material, training equipment and motorcycles, where necessary;
 - (d) Securing and maintaining the classroom and driving range sites;
 - (e) Ensuring that all participants complete a release, waiver and indemnification form supplied by the Department; and,
 - (f) Providing any additional records or reports as requested by the Program Coordinator.
- (6) Sponsor certification shall expire one (1) year from the date of issuance.

Authority. T.C.A. §55-51-102.

1340-1-11-.07 COURSE SITE REQUIREMENTS.

- (1) The Commissioner or designated representative in conjunction with the State Coordinator shall have the final authority for approval or denial of any new program or site in order to insure the most efficient use of state funds. Consideration will be given, but not limited to: Sites in areas, demand for training in the area, and the course to be offered.
- (2) The rider training course riding range shall meet or exceed standards set forth by the Motorcycle Safety Foundation and the Tennessee Motorcycle Rider Education Program.
 - (a) Be within a reasonable distance of the classroom and storage area, so as not to interfere with the training schedule.
 - (b) Should measure at least 160' x 260'.
 - (c) Shall be a paved riding area.
 - (d) Be free of obstacles.

PROPOSED RULES

- (e) Be as level as possible (a slope of more than three (3) degrees may hinder learning).
 - (f) Have adequate “run off” room (minimum of twenty (20) feet).
 - (g) Be free of pedestrian and vehicular traffic during all on-cycle sessions.
 - (h) Be an adequate distance from neighbors to minimize complaints of noise and activity.
 - (i) Always have available, a complete first aid kit and a class “A” fire extinguisher.
 - (j) Meet or exceed all M.S.F. current course requirements.
- (3) All training sites shall meet the following minimum requirements for the classrooms.
- (a) A room with desks and chairs for all students.
 - (b) Comfortably accommodate twenty-four (24) students.
 - (c) Have a chalk board or easel and all necessary audio visual equipment.
 - (d) Have adequate access to restrooms and drinking water.
 - (e) Be within a reasonable distance of the range and storage area, so as not to interfere with the training schedule.
- (4) All training sites will meet the following minimum motorcycle and equipment storage requirements.
- (a) Provide a physical facility that will store all motorcycle and necessary training equipment and supplies.
 - (b) Physical facility will not infringe on the range “run off” area.
 - (c) Will provide adequate security from fire, theft and vandalism in accordance with all laws, ordinances and building codes.
- (5) Any modifications, changes, alterations or exceptions to the training site requirements must receive prior approval from the Program Coordinator.
- (6) Rider training course sites shall be approved by the Program Coordinator prior to commencement of the Rider training course.
- (a) M.S.F. Rider Education Recognition Program application and Range Information Forms must be completed and have the State Coordinator’s signature prior to presentation to M.S.F approval.

Authority: *T.C.A. §55-51-102 and 55-51-103.*

PROPOSED RULES

1340-1-11-.08 ADVISORY COMMITTEE.

- (1) The advisory committee shall consist of five (5) members, including a chairman, appointed by the Commissioner.
- (2) One (1) member selected shall reside from each grand division of the State, two (2) members shall be selected from the State at large, and not more than two (2) members shall be residents of the same grand division.
 - (a) Two (2) members shall be qualified motorcycle wholesalers, dealers, or retailers licensed in Tennessee. All shall be of good moral character and each shall have been actually engaged in the distribution or sale of motorcycles in this State for not less than three (3) consecutive years preceding such appointment, and each shall have the necessary qualifications for the applicable license under title 55, chapter 17, and be the holder of such license at all times while a member of the committee.
 - (b) Two (2) members shall be consumer members of the advisory committee who shall be citizens of this State, who shall have a valid motorcycle driver license (Class M), and who shall have no interest, direct or indirect, in the commercial manufacture or sale of motorcycles.
 - (c) One (1) member shall be from the Training program, Rider Coach Trainer or Rider Coach.
- (3) The committee shall also monitor the program upon its implementation and report to the Commissioner as necessary with recommendations including, but not limited to, the administration, application and substance of the program.
- (4) The committee shall meet at the call of the Commissioner.
- (5) Members shall serve without compensation for their services but may be reimbursed for their travel expenses while engaged in business of the committee.
- (6) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the Department of Finance and Administration and approved by the Attorney General.

Authority: *T.C.A. §55-51-105.*

1340-1-11-.09 TUITION FEES.

- (1) A sponsor may charge reasonable fees to cover the costs of conducting a rider-training program. The total fees charged by a sponsor who accepts a subsidy grant to provide for the start up costs shall not exceed two hundred fifty dollars (\$250.00) per student, per basic rider training course (BRT), and one hundred fifty dollars (\$150.00) per participant, per experienced rider training course (ERT). A private sponsor accepting no start up subsidy may set their own fee for the BRT and ERT.
 - (a) Each sponsor shall, by July 1 of each year, submit to the Program Coordinator, in writing, his or her training fees.

PROPOSED RULES

- (2) The department shall enter into a direct grant authority with each new sponsor approved by the department in order to subsidize the start-up costs incurred in establishing a local rider-training program.
- (3) The Department shall enter into a direct grant with each program in order to subsidize start up costs of additional sites without a program, (no more than three thousand dollars, \$3000.00).
 - (a) The maximum number of subsidy grants issued shall not exceed one (1) per new sponsor and the maximum number of statewide subsidy grants shall be established annually by the Department.
 - (b) The expansion grant shall not exceed (1) per year, per program.
 - (c) The subsidy grant shall be used exclusively for defraying the start-up costs associated with equipment, training curriculum materials, facility rental, required liability insurance coverage, and other costs as determined by the Program Coordinator.

Authority: T.C.A. §55-51-102 and 55-51-104.

1340-1-11-.10 GENERAL REGULATIONS.

- (1) Any and all Certificates of Certification issued by the Department may be suspended by the Director upon the recommendation of the Program Coordinator for any violation of the rules and regulations governing the Motorcycle Rider Education Program.
- (2) The suspension of any certificate shall be for a period of time to be determined by the Director, but in no event shall be less than ninety (90) days.
- (3) No alcoholic beverages of any type or narcotic drugs will be consumed or stored on the premises of the training site.
- (4) Any authorized representative of the Department shall be permitted to inspect the rider training course site at any time during regular business hours, or during the conducting of a program.

Authority: T.C.A. §55-51-102.

1340-1-11-.11 SUSPENSION, REVOCATION OR DENIAL OF CERTIFICATE(S).

- (1) Revocation of Certificate(s) - The Director shall, upon receipt of satisfactory evidence from the Program Coordinator, suspend, revoke, refuse to issue or refuse to renew the certificate(s) of a site coordinator, rider coach trainer, or rider coach if:
 - (a) The holder of any certificate fails or refuses to comply with the provision of T.C.A. Title 55, Chapter 51, or any rule or regulation adopted there under;
 - (b) The holder of any certificate has made a false material statement or has concealed a material fact in connection with his application;

PROPOSED RULES

- (c) The holder of any certificate has been guilty of a fraudulent practice in attempting to obtain for himself or another a certificate.
 - (d) Written notice of the Cancellation of Insurance required by the regulations herein is received by the Director and the certificate holder does not present satisfactory evidence of insurance to the Director prior to the effective date of the cancellation;
 - (e) The holder of any certificate fails to maintain the minimum qualification established herein.
- (2) Return of Suspended or Revoked Certificate.
- (a) The holder of any certificate that has been revoked or suspended, must return said certificate to the Director or his designated representative within five (5) days of the date of notification of suspension.

Authority: T.C.A. §§55-51-101, 55-51-102 and 55-51-103.

1340-1-11-.12 CERTIFICATE OF COMPLETION FOR STUDENTS.

- (1) Upon successful completion of a State certified Motorcycle Rider Education Course, (BRC/ERC), each individual will be given a certificate showing that he or she has successfully completed said course.
- (2) Individuals who have successfully completed a State certified Motorcycle Rider Education Course, (BRC/ERC), shall be exempt from taking the written motorcycle knowledge test and the ability skills test at the Driver License Examining Stations. These individuals shall be required only to take the visual examination for a motorcycle driver license-restricted (Class M-Restricted), a motorcycle learner permit (Class P-M), or a motorcycle driver license (Class M), which ever applies.
- (3) Individuals who are fourteen (14) or fifteen (15) years of age and elect not to participate in a state certified Motorcycle Rider Education Course, must pass the written, visual and ability skills tests at a Tennessee Driver License Examination Station prior to receiving a restricted motorcycle license (Class M-Restricted), or a motorcycle learner permit (Class P-M), respectively.
- (4) Individuals who have previously successfully completed the written, visual and ability skills tests, or who hold a certificate from a state certified Motorcycle Rider Education Course, must, at the age of sixteen (16), return to a Tennessee Driver License Examination Station and upgrade their restricted license or permit to a regular motorcycle driver license (Class M) to retain the privilege of operating a motorcycle.

Authority: T.C.A. §§55-51-102 and 55-51-107.

The proposed rules set out herein were properly filed in the Department of State on the 9th day of August, 2006, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of December, 2006. (08-06-06)

PUBLIC NECESSITY RULES

PUBLIC NECESSITY RULES NOW IN EFFECT

For text of public necessity rules see T.A.R. cited at

<http://www.state.tn.us/sos/pub/tar/index.htm>

or

the Department of State's website at

http://www.state.tn.us/sos/rules/necessity/nec_index.htm

- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rules necessary to conform the Bureau of TennCare's rules to comply with state and federal statutory requirements and to comport with the requirements of *John B. v. Menke*, chapter 1200-13-13, TennCare Medicaid, 5 T.A.R. (May 2006) - Filed May 3, 2006; effective through October 15, 2006. (05-01)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rules required to conform the current TennCare Medicaid rules to reflect changes resulting from court orders, chapter 1200-13-13, TennCare Medicaid, 5 T.A.R. (May 2006) - Filed May 17, 2006; effective through October 29, 2006. (05-11)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rules necessary to conform the Bureau of TennCare's rules to comply with state and federal statutory requirements and to comport with the requirements of *John B. v. Menke*, 5 T.A.R. (May 2006) - Filed May 3, 2006; effective through October 15, 2006. (05-02)
- 0620 - Department of Finance and Administration - Bureau of TennCare - Public Necessity Rules required to conform the current TennCare Medicaid rules to reflect changes resulting from court orders, chapter 1200-13-14, TennCare Medicaid, 5 T.A.R. (May 2006) - Filed May 17, 2006; effective through October 29, 2006. (05-12)
- 0780 - Department of Commerce and Insurance - Division of Regulatory Boards - Public Necessity Rules promulgated in accordance with the "Tennessee Home Inspector License Act of 2005", chapter 0780-5-12 Home Inspectors, 5 T.A.R. (May 15, 2006) - Filed April 7, 2006, 2006; effective through September 19, 2006. (04-05)
- 1200 - Department of Health - Community Services Division - Public Necessity Rules required by federal law and state law regarding changes required to be made to the Department's rules pertaining to Conrad J-1 Visa Waiver physicians, chapter 1200-20-11, Rules and Regulations Governing the State Conrad J-i Visa Waiver Program, 5 T.A.R. (May 2006) - Filed May 19, 2006; effective through October 31, 2006. (05-15)
- 1240 - Department of Human Services - Family Assistance Division - Public Necessity Rules regarding the standard of need and grant amounts in the Families First program - chapter 1240-1-50 Financial Eligibility Requirements Families First Program Standard of Need/Income, 8 T.A.R., (August 2006) - Filed July 3, 2006; effective through December 15, 2006. (07-01)

PUBLIC NECESSITY RULES

TENNESSEE ETHICS COMMISSION - 0580

STATEMENT OF NECESSITY FOR ADOPTING PUBLIC NECESSITY RULES

Submitted herewith are Rules Pertaining to Lobbyists and Employers of Lobbyists for promulgation by the Tennessee Ethics Commission under the public necessity provision of the Uniform Administrative Procedures Act. The Commission has adopted these rules pursuant to Tenn. Code Ann. § 4-5-209(a)(4), which authorizes an agency to adopt public necessity rules when “[t]he agency is required by an enactment of the general assembly to implement rules within a prescribed period of time which precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules.”

Public Chapter 1, Acts of 2006, which enacted the Comprehensive Governmental Ethics Reform Act of 2006 (the “Ethics Act”), created the Tennessee Ethics Commission. The Act further provided that, effective October 1, 2006, all lobbyists and employers of lobbyists would be regulated by the Tennessee Ethics Commission and that they must register by submitting a registration statement and fee to the Tennessee Ethics Commission. The Act authorizes the Tennessee Ethics Commission to promulgate any rules and regulations as may be appropriate for the administration and regulation of lobbyists and employers of lobbyists, but requires that any such rules specifying the manner in which documents are to be filed with the Tennessee Ethics Commission are to be promulgated and published and least sixty (60) days prior to the due date of any document affected by such rules.

The Tennessee Ethics Commission has promulgated these public necessity rules, which among other things, specify the manner in which registration statements and disclosure reports are to be filed with the Tennessee Ethics Commission and the amount of registration fee to be paid. These rules have been promulgated as public necessity rules in order to ensure that the Tennessee Ethics Commission meets the deadlines mandated by the General Assembly in the Ethics Act. Without the adoption of these public necessity rules, the Commission is faced with a period of time during which it will be unable to register lobbyists and employers of lobbyists as required by the Ethics Act at Tenn. Code Ann. § 3-6-302. Additionally, the Commission will be unable to collect a registration fee, thereby eliminating funding necessary for the Commission to carry out all the provisions of the Ethics Act.

The Commission’s inability to register and regulate lobbyists and employers of lobbyists defeats one of the primary purposes of the Ethics Act to secure and protect the integrity of the processes of government and to sustain the public’s confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities. It will also result in the public’s continuing to be uninformed about the processes of state and local government. Therefore, these public necessity rules are being adopted in order to protect the public welfare, to provide lobbyists and employers of lobbyists with the ability to comply with the registration provisions of the Ethics Act, and to provide the Commission with the necessary ability and funding to implement the lobbyists and employers of lobbyists registration and regulation provisions set forth in the Ethics Act. Due to the length of time necessary to complete the rulemaking process under the Uniform Administrative Procedures Act, these public necessity rule should be adopted immediately in order to permit the Commission to permit the registration of lobbyists and employers of lobbyists required by the Ethics Act and until publication rules are effective.

For complete copies of the text of the notice, please contact Janet M. Kleinfelter, Office of Attorney General, 425 5th Avenue North, Nashville, TN 37243, telephone 615-741-7403.

THOMAS J. GARLAND, Chair
Tennessee Ethics Commission

PUBLIC NECESSITY RULES

**PUBLIC NECESSITY RULES
OF THE
TENNESSEE ETHICS COMMISSION**

**CHAPTER 0580-1
RULES PERTAINING TO LOBBYISTS AND EMPLOYERS OF LOBBYIST**

TABLE OF CONTENTS

0580-1-1-.01	Definitions
0580-1-1-.02	Lobbyist Registration
0580-1-1-.03	Employer of Lobbyist Registration
0580-1-1-.04	Volunteer Lobbyist and Employer Registration
0580-1-1-.05	Filing of Employer Disclosure Reports
0580-1-1-.06	Filing of Lobbyist Disclosure Reports
0580-1-1-.07	Informal Show Cause Hearings
0580-1-1-.08	Issuance and Appeal of Civil Penalty Assessment Orders
0580-1-1-.09	Reconsideration of Issuance of Civil Penalty Assessment Orders
0580-1-1-.10	Issuance of Advisory Opinions by Commission
0580-1-1-.11	Audits

0580-1-1-.01 DEFINITIONS.

- (1) “Administrative Action” means the making of any recommendation, report or non-ministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, “administrative action” does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government.
- (2) “Association” means any union, league, chamber of commerce, committee, club, or other membership organization.
- (3) “Attorney general” means the attorney general and reporter.
- (4) “Audit and investigatory information” means data pertaining to the nature, source, or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, furnished to, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, the provisions of this part. “Audit and investigatory information” does not include data in a form which cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist.
- (5) “Campaign contribution” means any contributions as defined by § 2-10-102(4).
- (6) “Candidate for public office” means any individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections

PUBLIC NECESSITY RULES

to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one should be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch.

- (7) "Compensation" means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, "compensation" does not include the salary or reimbursement of an individual whose lobbying is incidental to such person's regular employment.
- (8) "Employer of a lobbyist" or "employer" means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. "Employer of a lobbyist" or "employer" specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. "Employer of a lobbyist" or "employer" does not include the individual employees, officers, directors or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. "Employer of a lobbyist" or "employer" does not include any such person or entity who employs, retains or otherwise arranges for one or more person to engage in lobbying if the only compensation paid is reimbursement for actual out-of-pocket expenses for not more than ten (10) days per lobbyist per registration year. For purposes of employer registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm.
- (9) "Executive agency" means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch.
- (10) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure.
- (11) "Gift" means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or service, unless consideration of equal or greater value is received. "Gift" does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar.
- (12) "Immediate family" means a spouse or minor child living in the household.
- (13) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving

PUBLIC NECESSITY RULES

of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch.

- (14) "Legislative action" means introduction, sponsorship, debate, voting or any other non-ministerial official action or non-action on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly.
- (15) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action. "Lobby" does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or ruling making procedure; or an editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public. "Lobby" does not mean communications by an incumbent or prospective contractor or vendor, or an employee of such contractor or vendor, while engaged in selling or marketing to the state, or any department or agency of the state, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information; provided that any such contractor or vendor or employee thereof shall be deemed to be a lobbyist solely for the purposes of §§ 3-6-304 and 3-6-305. "Lobby" does not mean communications by an employee of a school board, municipal utility, utility district, or any department, agency or entity of state, county or municipal government; provided, however, if the board, utility, district, department, agency or entity employs, retains or otherwise arranges for lobbyist services in this state by a contractor, subcontractor or other representative, who is not an employee of such board, utility, district, department, agency or entity, then "lobby" includes communications by such contractor, subcontractor or other representative and such contractor, subcontractor or other representative shall comply with the lobbying registration and other provisions of this chapter pertaining to lobbyists; provided further, however, the board, utility, district, department, agency or entity which employs such contractor, subcontractor or other representative is not deemed to be an employer of a lobbyist for purposes of this chapter. "Lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan or incentive pursuant to §§ 4-3-701 - 4-3-733; and "lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to any component of an economic development incentive package, provided that any such person who is otherwise required to register as a lobbyist under the provisions of this act shall not be deemed to fall within this exception.
- (16) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation.
- (17) "Lobbyist" means any person who engages in lobbying for compensation. "Lobbyist" does not include any person who engages in lobbying for compensation if the only compensation received is reimbursement for actual out-of-pocket expenses for ten (10) days or less per registration year.

PUBLIC NECESSITY RULES

- (18) “Ministerial action” means any action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person’s own judgment upon the propriety of the action being taken.
- (19) “Official in the executive branch” means the governor, any member of the governor’s staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee Regulatory Authority, or any member or employee of any executive department or agency or other state body in the executive branch.
- (20) “Official in the legislative branch” means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action. “Official in the legislative branch” also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices.
- (21) “Out-of-Pocket Personal Expenses” includes such things as lobbyist registration fee, legislative information services material, copying expenses, transportation costs, parking fees, personal lodging and food expenses incurred while actually engaged in lobbying.
- (22) “Person” means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
- (23) “Solicit” means to entreat, to implore, to ask, to attempt, or to try to obtain.

Authority: *T.C.A. §§ 3-6-308(a)(9) and 3-6-301.*

0580-1-1-.02 LOBBYIST REGISTRATION.

- (1) Within seven (7) days of becoming employed as a lobbyist, a lobbyist shall register with the Commission and provide the following information:
 - (a) Name, complete business address, telephone number and e-mail address;
 - (b) Name, complete business address, telephone number and e-mail address of each employer the lobbyist is authorized to represent;
 - (c) Subject matters lobbied for each employer during the registration year, as indicated among the general categories listed by the Commission on the registration statement;
 - (d) Name and business address of any member of the lobbyist’s immediate family who is an official within the legislative or executive branch; and
 - (e) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office of any official in the legislative or executive branch.
- (2) A person who registers as a lobbyist shall update, correct or otherwise modify his or her lobbyist’s registration statement within seven (7) days after the occurrence of any event, action or changed circumstances that renders the registration statement inaccurate or incomplete.

PUBLIC NECESSITY RULES

- (3) A person who registers as a lobbyist shall, within thirty (30) days after registration, submit a current photographic portrait to the Commission; however, no portrait is required for any updates, corrections or modifications to a lobbyist's registration statement during the current registration year.
- (4) A person who registers as a lobbyist shall, within thirty (30) days after registration, submit a fee to the Commission in the amount of one hundred and fifty dollars (\$150.00) per employer. This fee shall not be subject to refund.
- (5) A lobbying firm may elect to file a consolidated lobbyist registration statement and amendments to lobbyist registration statement on behalf of all partners, associates and employees within the firm who engage in lobbying activity.
 - (a) Any such consolidated lobbyist registration statement and amendments thereto shall list each partner, associate and employee of the firm individually and shall provide the same information required for an individual person registering as a lobbyist.
 - (b) A photographic portrait of each partner, associate and employee of the lobbying firm shall be submitted to the Commission within thirty (30) days after filing of such consolidated lobbyist registration statement.
 - (c) A fee in the amount of one hundred and fifty dollars (\$150.00) per employer for each partner, associate and employee of the lobbying firm shall be submitted to the Commission within thirty (30) days after filing such consolidated lobbyist registration statement. These fees shall not be subject to refund.
 - (d) Each partner, associate and employee of the lobbying firm shall remain individually liable for the timeliness and accuracy of such consolidated lobbyist registration statement and any amendments to such consolidated lobbyist registration statement, as well as the timeliness of submission of the photographic portrait and registration fee.
- (6) A person who registers as a lobbyist shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-302, 3-6-304 and 3-6-305.

0580-1-1-.03 EMPLOYER OF LOBBYIST REGISTRATION.

- (1) Within seven (7) days of becoming an employer of a lobbyist, the employer shall register with the Commission and provide the following information:
 - (a) Name, complete business address, telephone number and e-mail address;
 - (b) If a corporation, association or government entity, the names of the individuals performing the functions of chief executive officer and chief financial officer;
 - (c) Name, complete business address, telephone number and e-mail address of each lobbyist authorized to represent the employer; and

PUBLIC NECESSITY RULES

- (d) Verification of delivery, by each lobbyist authorized to represent the employer, of the Commission's manual for lobbyists and employers of lobbyists as required by T.C.A. § 3-6-114(c)(1).
- (2) An employer of a lobbyist shall update, correct or otherwise modify the employer of lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstances that renders the registration statement inaccurate or incomplete.
- (3) An employer of a lobbyist shall, within thirty (30) days of registration, submit a fee to the Commission in the amount of one hundred and fifty dollars (\$150.00) per lobbyist. This fee shall not be subject to refund.
- (4) An employer of a lobbyist who registers as such with the Commission shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-302, 3-6-304 and 3-6-305.

0580-1-1-.04 VOLUNTEER LOBBYIST AND EMPLOYER REGISTRATION.

- (1) A person who receives as compensation for lobbying reimbursement for actual out-of-pocket expenses for more than ten (10) days per registration year shall be required to register as a lobbyist, including the submission of a photographic portrait and registration fee in the amount of one hundred and fifty dollars (\$150.00) within thirty (30) days after registration. Such person shall also be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.
- (2) Any person or entity who employs, retains or otherwise arranges for one or more persons to engage in lobbying for compensation which is reimbursement for actual out-of-pocket expenses for more than ten (10) days per person per registration year shall be required to register as an employer of a lobbyist and pay the registration fee in the amount of one hundred and fifty dollars (\$150.00) within thirty (30) days after registration. Such person or entity shall also be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-304, 3-6-305 and 3-6-307.

0580-1-1-.05 FILING OF EMPLOYER DISCLOSURE REPORTS.

- (1) Each employer of a lobbyist shall electronically file an employer disclosure report with the Commission on the dates and for the reporting periods specified below:
 - (a) Mid-year. An employer of lobbyist shall file a mid-year employer disclosure report no later than May 15. Such report shall cover the period from and including October 1 through March 31.

PUBLIC NECESSITY RULES

- (b) Year-end. An employer of lobbyist shall file a year-end employer disclosure report no later than November 14. Such report shall cover the period from and including April 1 through September 30.
- (2) Each employer of a lobbyist shall electronically file a disclosure report within thirty (30) days following an event permissible under T.C.A. § 3-6-305(b)(8). Such disclosure report shall contain the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty (\$50) dollars per person per day excluding sales tax and gratuity.
 - (a) If the costs of an event permissible under T.C.A. § 3-6-305(b)(8) are shared by two (2) or more employers, a consolidated report may be filed by the employers with the Commission.
 - (b) Any consolidated disclosure report filed with the Commission shall specify the allocation of costs among the employers; however, such employers shall remain individually accountable for the timeliness and accuracy of the consolidated filing.
- (3) A document delivered to the Commission office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except state holidays), 8:00 a.m. through 4:30 p.m.
- (4) When the filing deadline for an employer disclosure report falls on a weekend or a state holiday, resulting in the closing of the Commission office, the disclosure report is to be filed with the Commission by the employer on the next business day.
- (5) All employer disclosure reports shall, at a minimum, include the following information:
 - (a) aggregate total amount of lobbyist compensation paid by the employer for the reporting period in accordance with the ranges set forth in T.C.A. § 3-6-303;
 - (b) aggregate total amount of employer expenditures, excluding lobbyist compensation, incurred for the purpose of influencing legislative or administration action through public opinion or grassroots action in accordance with the ranges set forth in T.C.A. § 3-6-303;
 - (c) aggregate total amount of all employer expenditures for any event permissible under T.C.A. § 3-6-305(b)(8).

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-303 and 3-6-305(b)(8).

0580-1-1-.06 FILING OF LOBBYIST DISCLOSURE REPORT.

- (1) Each lobbyist shall electronically file a disclosure report within thirty (30) days following an event permissible under T.C.A. § 3-6-305(b)(8). Such disclosure report shall contain the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty (\$50) dollars per person per day excluding sales tax and gratuity.

PUBLIC NECESSITY RULES

- (a) If the costs of an event permissible under T.C.A. § 3-6-305(b)(8) are shared by two (2) or more lobbyists, a consolidated report may be filed by the lobbyists with the Commission.
- (b) Any consolidated disclosure report filed with the Commission shall specify the allocation of costs among the lobbyists; however, such lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing.
- (2) A document delivered to the Commission office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except state holidays), 8:00 a.m. through 4:30 p.m.
- (3) When the filing deadline for a lobbyist disclosure report falls on a weekend or a state holiday, resulting in the closing of the Commission office, the disclosure report is to be filed with the Commission by the employer on the next business day.

Authority: T.C.A. §§ 3-6-308(a)(9) and 3-6-305(b)(8).

0580-1-1.07 INFORMAL SHOW CAUSE HEARINGS.

- (1) When Commission staff presents documentation to the Commission indicating that a lobbyist or employer of a lobbyist has possibly violated the Tennessee Lobbyist Registration and Disclosure Law and before the Commission takes action to assess civil penalties for a violation, the Commission shall send a written notification to the lobbyist of the allegations and the class and maximum amount of civil penalties or other administrative sanction which would be assessed for such a violation. Additionally, this notification shall inform the lobbyist or employer of the date, place and time of the Commission's next regularly scheduled meeting and provide the lobbyist or employer the opportunity to choose one (1) of the following options:
 - (a) The lobbyist or employer, or designee of the lobbyist or employer, shall be provided an opportunity to personally appear before the Commission at its next regularly scheduled meeting to show why civil penalties or other administrative sanction should not be assessed; or
 - (b) The lobbyist or employer, or designee of the lobbyist or employer, must be provided an opportunity to submit a sworn statement to the Commission which has been sworn to before a notary public, along with any pertinent attachments, to show why civil penalties or administrative sanction should be not assessed.
- (2) The opportunity provided to a lobbyist or employer, or the designee of a lobbyist or employer, to personally appear before the Commission or to submit a sworn statement for the Commission's consideration as to whether to assess civil penalties or other administrative sanction against the lobbyist or employer is not in lieu of any contested case hearing rights that the lobbyist or employer may have pursuant to Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (3) In order for a lobbyist or employer, or designee of a lobbyist or employer, to take advantage of the opportunity to personally appear before the Commission at its regularly scheduled meeting, the candidate or committee must request such an appearance in writing at least five

PUBLIC NECESSITY RULES

(5) business days prior to the Commission meeting. A lobbyist or employer has the right to appear with legal counsel at the Commission meeting.

- (4) In order for a lobbyist or employer, or the designee of a lobbyist or employer, to take advantage of the opportunity to submit a sworn statement, along with any pertinent attachments for the Commission's determination as to whether to assess civil penalties or other administrative sanction, the sworn statement and any attachments must be received in the Commission's office no later than twenty-four (24) hours prior to the starting time of the Commission's meeting in order to have the information to be considered by the Commission.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306.

0580-1-1-.08 ISSUANCE AND APPEAL OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) A civil penalty order issued by the Commission assessing penalties against a lobbyist or employer cannot be issued unless a majority of the Commission members present have voted that such an order be issued. Once a majority of the Commission members have voted that such an order should be issued, the chairperson or executive director shall have the authority to issue the order on behalf of the Commission.
- (2) A civil penalty order assessing civil penalties shall be mailed by registered or certified mail or by overnight mail delivery to the lobbyist or employer to whom the order is issued, and the party to whom it is issued shall be provided thirty (30) days from the date of the issuance of the order to either appeal the Commission's order pursuant to the procedures provided for under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq., or to pay the assessed penalties to the Commission.
- (3) In order for a lobbyist or employer to appeal an order issued by the Commission assessing civil penalties, the lobbyist or employer shall file a petition with the Commission. This petition shall be considered a request for a contested case hearing pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (4) If the Commission's order assessing civil penalties is not appealed within thirty (30) days of its issuance by the lobbyist or employer to whom it was issued, the order becomes a final order.
- (5) If a lobbyist or employer fails either to appeal a civil penalty order issued to it by the Commission or to pay the Commission the assessed civil penalties and the Commission's order becomes final without the party taking any such action, upon the order becoming final, the Commission shall forward the matter to the State Attorney General and Reporter's office. The Commission shall request that the Attorney General take legal action on its behalf to collect the civil penalties from the lobbyist or employer against whom the action has been taken.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306. *Administrative History:*

PUBLIC NECESSITY RULES

0580-1-1-.09 RECONSIDERATION OF THE ISSUANCE OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) If a lobbyist or employer against whom a civil penalty assessment order has been issued by the Commission wishes to request that the Commission reconsider the matter, the lobbyist or employer must follow these procedures to have the Commission consider the request:
 - (a) The lobbyist or employer must file a written request with the Commission asking that the assessment of civil penalties against the lobbyist or employer be reconsidered by the Commission. The written request for reconsideration must be filed with the Commission within fourteen (14) days of the date of the issuance of the Commission's order assessing civil penalties. Failure to timely file such a request for reconsideration shall result in automatic denial of the request.
 - (b) For a written request for reconsideration to be considered by the Commission, the lobbyist or employer must include additional information concerning the matter that was not available for the Commission's consideration at its meeting at which the civil penalty order was issued by the Commission. If no additional information is included in the request for reconsideration, the Commission may choose not to reconsider the matter.
 - (c) If the lobbyist or employer files a written request for reconsideration of an assessment of civil penalties with the Commission and asks to make a personal appearance before the Commission at a regularly scheduled meeting and, without good cause, fails to appear at that meeting without having notified the Commission prior to the meeting, the Commission will deny the request for reconsideration.
- (2) While a request for reconsideration of a civil penalty order by a lobbyist or employer is pending before the Commission, the Commissioner's order assessing penalties does not become final until a determination is made by the Commission as to the request for reconsideration. Upon a vote of a majority of the Commission members to deny a lobbyist's or employer's request for reconsideration of any civil penalty assessment order, the Commission shall issue an order denying the request and providing the lobbyist or employer ten (10) days after the date of the issuance of the order to appeal the original assessment order under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq. before the order becomes a final order.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306.

0580-1-1-.10 ISSUANCE OF ADVISORY OPINIONS BY COMMISSION.

- (1) A lobbyist or employer of a lobbyist may submit to the Commission a written request for an advisory opinion as to the application of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law. In submitting such a request, the lobbyist or employer shall include a complete description of all facts relevant to the specific transaction or activity which is the subject of the opinion request.
- (2) After reviewing a lobbyist's or employer's request for an advisory opinion and if the Commission staff determines that more information from the lobbyist or employer is necessary in

PUBLIC NECESSITY RULES

order for the Commission to properly respond to the request, the staff shall notify the lobbyist or employer of the additional information which should be submitted to the Commission.

- (3) After reviewing a lobbyist's or employer's advisory opinion request and upon determining that the request presents essentially the same fact situation or proposed activity which was the subject of an advisory opinion previously issued by the Commission, the staff may recommend to the Commission at its next regularly scheduled meeting that a copy of that earlier opinion be sent to the lobbyist or employer, in lieu of issuing a new opinion. If at least four (4) of the members of the Commission present and voting at the meeting vote to adopt the staff's recommendation, a copy of the previous opinion shall be mailed to the lobbyist or employer with a memorandum explaining that the analysis and conclusion(s) contained in that previous opinion are applicable to the activity being proposed by the lobbyist or employer. However, if at least four (4) of the members present and voting at the meeting determine that a new advisory opinion should be issued addressing the lobbyist's or employer's request, the procedures outlined in paragraph (4) through (7) of this rule shall be followed in issuing the opinion, where applicable.
- (4) The Commission staff shall review the question presented in the lobbyist's or employer's request and research the applicable provisions of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law. A draft of an advisory opinion shall be presented to the members of the Commission at the Commission's next meeting, with a recommendation from the staff. After reviewing the draft, the members of the Commission present at the meeting shall vote as to whether to issue the opinion as drafted.
- (5) If at least four (4) of the members of the Commission present and voting at a meeting vote to issue an advisory opinion as drafted by the staff, the advisory opinion shall be issued under the signature of the chairperson. The opinion shall be provided to the lobbyist or employer who requested it. Additionally, the Executive Director shall post a copy of the opinion on the Commission's website and a copy of the opinion shall be retained at the Commission office for public inspection and copying.
- (6) If at least four (4) of the members of the Commission present and voting at a meeting vote not to adopt an opinion as drafted, any Commission recommended changes shall be made in the opinion by the staff. If the changes voted by the Commission are minor changes, the staff shall be directed to make those specific changes, the opinion shall be issued under the signature of the chairperson without further review by the Commission. The procedures for disseminating the advisory opinion as set forth in paragraph (5) shall then be followed.
- (7) If at least four (4) of the Commission members present and voting at a meeting vote changes to be made to a draft advisory opinion which require the staff to re-write or substantially re-write the opinion, the Executive Director shall present another draft of the opinion to the Commission members at the next scheduled meeting of the Commission.

Authority: T.C.A. §§ 3-6-308(a) (4) and (9).

0580-1-1-.11 AUDITS.

- (1) On an annual basis the Commission shall audit at least two percent (2%) of registration statements, amendments to registration statements and disclosure reports of lobbyists. The statements and reports to be audited shall be selected on a random basis.

PUBLIC NECESSITY RULES

- (2) Upon a finding of probable cause to believe that a lobbyist or employer of a lobbyist has violated any provision of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law, T.C.A. §§ 3-6-301 et seq., the Commission may audit the registration, amendments to registration statement and disclosure reports of such employer or lobbyist.
- (3) All audit and investigatory information obtained by or submitted to the Commission shall be confidential and shall be maintained as such in the same manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the Department of Revenue and the state under the provisions of Title 67, Chapter 1, Part 17.

Authority: T.C.A. §§ 3-6-308(a) (7), (9) and 3-6-308(c).

The public necessity rules set out herein were properly filed in the Department of State on the 9th day of August, 2006, and will be effective from the date of filing for a period of 165 days. These public necessity rules will remain in effect through the 21st day of January, 2007. (08-08-06)

PUBLIC NECESSITY RULES

TENNESSEE DEPARTMENT OF TRANSPORTATION - 1680 ENVIRONMENTAL DIVISION

STATEMENT OF NECESSITY REQUIRING PUBLIC NECESSITY RULES

Pursuant to the Federal Highway Beautification Act of 1965, 23 U.S.C. § 131, Federal law requires States to provide for the effective control of outdoor advertising in areas adjacent to Interstate and federal-aid primary highways. If the U.S. Secretary of Transportation finds that a State has failed to provide for such effective control, the Secretary is authorized under 23 U.S.C. § 131(b) to withhold ten percent (10%) of the federal-aid funds that would otherwise be apportioned to that State for transportation purposes under 23 U.S.C. § 104.

The Federal Highway Administration has adopted regulations, 23 C.F.R. § 750.701, et seq., to establish requirements that the States must meet in order to assure that there is effective control of outdoor advertising. These rules direct each State to establish size, lighting and spacing criteria in accordance with which outdoor advertising signs may be lawfully permitted in commercial or industrial areas adjacent to Interstate and federal-aid primary highways. 23 C.F.R. § 750.706. Under Federal law, a non-conforming sign is one that was lawfully erected but does not comply with the provisions of State law or State regulations passed at a later date or later fails to comply with State law or State regulations due to changed conditions (e.g., a change in zoning). 23 C.F.R. § 750.707(b). The Federal rules authorize States to adopt a "grandfather clause" whereby such non-conforming signs may be allowed to remain in place. They provide, however, that a non-conforming sign may only remain "at its particular location for the duration of its normal life subject to customary maintenance." 23 C.F.R. § 750.707(c). More specifically, section 750.707(d)(5) of the Federal rules provides that a non-conforming sign "must remain substantially the same as it was" on the date it became non-conforming, subject to "reasonable repair and maintenance, including a change of advertising message." Any change more substantial than such customary maintenance will cause the sign to lose its lawful, non-conforming status. 23 C.F.R. § 750.707(d)(5). In addition, section 750.707(d)(6) provides that "The sign may continue as long as it is not destroyed, abandoned, or discontinued." The only exception to this rule is that a State may lawfully permit a destroyed sign to be "re-erected in kind" if the sign was "destroyed due to vandalism and other criminal or tortious acts." 23 C.F.R. § 750.707(d)(6).

Current Tennessee Department of Transportation regulations for the control of outdoor advertising authorize "extraordinary maintenance" beyond customary maintenance, up to and including reconstruction, of a non-conforming sign under certain circumstances, TDOT Rule 1680-2-3-.04(1)(b), and the reconstruction of non-conforming signs that have been destroyed by natural disaster, TDOT Rule 1680-2-3-.04(2). By letter dated June 6, 2006, the Federal Highway Administration's Tennessee Division Administrator has advised the Tennessee Department of Transportation that allowing the reconstruction of storm-damaged non-conforming signs is not in compliance with Federal law. Further, the letter advises that the Tennessee Department of Transportation has until October 1, 2006, to bring TDOT Rule 1680-2-3-.04 into compliance with 23 C.F.R. §§ 750.707(d)(5) and (d)(6), or the Federal Highway Administration will proceed with assessing the sanction of withholding ten percent (10%) of the federal-aid funds otherwise allocated to the State of Tennessee. Therefore, to avoid this threatened loss of federal funds, and in accordance with T.C.A. § 4-5-209(a)(3), the Department of Transportation promulgates the following amendments to Chapter 1680-2-3, Control of Outdoor Advertising, as public necessity rules to become effective on October 1, 2006.

For a complete copy of the text of these public necessity rules, contact John H. Reinbold, General Counsel, Tennessee Department of Transportation, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, telephone number (615) 741-2941.

PUBLIC NECESSITY RULES

**PUBLIC NECESSITY RULES
OF THE
TENNESSEE DEPARTMENT OF TRANSPORTATION
ENVIRONMENTAL DIVISION**

**CHAPTER 1680-2-3
CONTROL OF OUTDOOR ADVERTISING**

AMENDMENTS

Rule 1680-2-3-.02, Definitions, is amended by deleting paragraph (10), Extraordinary Maintenance, in its entirety and renumbering all subsequent paragraphs in the rule.

Authority: *T.C.A. § 54-21-112.*

Subparagraph (1)(b) of Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways, is amended by deleting the subparagraph in its entirety.

Authority: *T.C.A. § 54-21-112.*

Paragraph (2) of Rule 1680-2-3-.04, Control of Non-Conforming and Grandfathered Non-Conforming Advertising Devices Along the Interstate and Primary System of Highways, is amended by deleting the current wording of the paragraph in its entirety and substituting the following language in its place:

- (2) A lawfully permitted non-conforming device or grandfathered non-conforming device that has been destroyed or damaged beyond what may be repaired through customary maintenance may be rebuilt or repaired and continue to be permitted only if all of the following conditions are satisfied:
 - (a) The destruction of or damage to the device must have been caused by vandalism or some other criminal or tortious acts, excluding any negligent or intentional acts of the permit holder or any party acting by permission of, with the knowledge of, or in concert with the permit holder and/or sign owner.
 - (b) No device may be rebuilt and/or repaired without the prior written approval of the Regional Highway Beautification Office for the administrative region of the Tennessee Department of Transportation in which the device is located.
 - (c) The current holder of the permit or sign owner, if different, must submit a written request for approval to the appropriate Regional Highway Beautification Office, which written request must provide, at a minimum:
 1. Proof of the date and cause of the destruction of and/or damage to the device, including a copy of the police report made with respect to the vandalism or other criminal or tortious act causing such destruction or damage; and
 2. A general description of the manner in which it is proposed to rebuild and/or repair the device.

PUBLIC NECESSITY RULES

- (d) No post, pole or other support structure, or any component of the device other than the sign face or stringers, will be approved for replacement or repair without proof that such post, pole, support structure, or other component of the device was destroyed or damaged by an act of vandalism or some other criminal or tortious act.
- (e) The device must be rebuilt and/or repaired in such manner that it replicates the original device, including specifically as follows:
 - 1. The rebuilt and/or repaired device must remain or be rebuilt in the exact same location as the original device; and
 - 2. The rebuilt and/or repaired device must have the same height, size, and dimensions as the original device; and
 - 3. Each post, pole, other support structure, or other component of the device, including the sign face and stringers, must be rebuilt and/or repaired with materials that replicate the materials used to construct that same component in the original device (e.g., wood for wood, steel for steel, etc.); and
 - 4. No component may be added to the original device, including no lighting if the original sign was not illuminated, no reflective material if the original sign was not reflectorized, and no changeable message technology on the sign face if not included on the original sign.
- (f) The rebuilding and/or repair of the device must be completed within twelve (12) months after the date on which the original device was destroyed and/or damaged or the device will be treated as an abandoned outdoor advertising device.

Authority: T.C.A. § 54-21-112.

The public necessity rules set out herein were properly filed in the Department of State on the 1st day of August, 2006, and will be effective from October 1, 2006, for a period of 165 days. These public necessity rules will remain in effect through the 15th day of March, 2006. (08-01-06)

RULEMAKING HEARINGS

BOARD OF ACCOUNTANCY - 0020

There will be a hearing before the Tennessee State Board of Accountancy to consider the promulgation of amendments to rules pursuant to T.C.A. § 62-1-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204 and will take place in Room 160 of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee at 8:30 a.m. (Central Time) on the 23rd day of October, 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Department to determine how it may reasonably provide such aid or service. Initial contact may be made with 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: Linda Biek, 500 James Robertson Parkway, 2nd Floor, Nashville, TN 37243-1141, Tennessee State Board of Accountancy, (615) 741-2550.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0020-1

BOARD OF ACCOUNTANCY, LICENSING AND REGISTRATION REQUIREMENTS

AMENDMENTS

Paragraph (1) of rule 0020-1-.08 Renewal of Licenses is amended by deleting the text of the subparagraph and substituting instead the following so that, as amended, Paragraph (1) shall read:

- (1) Each holder of a certificate as a certified public accountant or a registration as a public accountant shall be required to renew such certificate or registration biennially.

Authority: T.C.A. §§ 62-1-105, 62-1-107 and 56-1-302.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 28th day of August, 2006. (08-39-06)

RULEMAKING HEARINGS

BOARD OF CHIROPRACTIC EXAMINERS - 0260

There will be a hearing before the Tennessee Board of Chiropractic Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-4-106. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 20th day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

CHAPTER 0260-2 GENERAL RULES GOVERNING CHIROPRACTIC EXAMINERS

Rule 0260-2-.02, Scope of Practice, is amended by adding the following language as new paragraph (4):

- (4) Acupuncture – Any licensed chiropractic physician who practices acupuncture shall, prior to commencing such practice, complete two hundred and fifty (250) hours of an acupuncture course accredited by an agency or entity acceptable to the Board and pass the National Board of Chiropractic Examiners Acupuncture Exam.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-106, 63-4-107, 63-6-1002, and Public Chapter 775 of the Public Acts of 2006.

Rule 0260-2-.12, Continuing Education, is amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (5) (b) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs, and the new subparagraph (5) (b) shall read:

- (1) Basic requirements - The Board of Chiropractic Examiners requires each licensee to complete twenty-four (24) clock hours of Board-approved continuing education each calendar year (January 1 – December 31). If the licensee practices acupuncture, six (6) of these twenty-four (24) hours shall pertain to such acupuncture practice.

RULEMAKING HEARINGS

- (5) (b) A maximum of six (6) credit hours may be granted for multi-media courses during each calendar year. If the licensee practices acupuncture, three (3) of these six (6) hours may pertain to such acupuncture practice.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-101, 63-4-106, 63-4-112, and Public Chapter 775 of the Public Acts of 2006.*

Rule 0260-2-.20, Advertising, is amended by inserting the following language as new subparagraph (4) (d) and renumbering the remaining subparagraphs accordingly:

- (4) (d) Statements that the licensee is a certified acupuncturist.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-4-106, 63-4-122, and Public Chapter 775 of the Public Acts of 2006.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2006. (08-47-06)

RULEMAKING HEARINGS

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400 DIVISION OF AIR POLLUTION CONTROL

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations, and Title V Program pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of October, 2006. Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of their comments to be submitted to the hearing officer at the public hearing.

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Wednesday, October 18, 2006, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to October 18, 2006 or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 12th Floor, 401 Church Street, Nashville TN 37243, (615) 532-0207. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Ron Culberson at (615) 532-0554. Copies of documents concerning this matter are available for review at the office of the Technical Secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. Malcolm Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0600.

SUMMARY AND SUBSTANCE OF PROPOSED CHANGE

Subparagraph 1200-3-26-.02(9)(d) is amended to set the major source fee rates for the accounting period July 1, 2006, through June 30, 2007. Also, the subparagraph is amended to include, beginning with the July 1, 2006, through June 30, 2007, accounting period, a minimum fee for major sources. This minimum fee would apply for a source if the calculation of the annual fee for that source using a fee rate results in a calculated fee of less than the specified minimum fee. The minimum fee is set for the July 1, 2006, through June 30, 2007, accounting period. In addition, the subparagraph is amended to notify sources that, as is done with the fee rates, this minimum fee may be adjusted for subsequent accounting periods to provide for collection of sufficient fees to fund the specified activities for those periods.

RULEMAKING HEARINGS

CHAPTER 1200-3-26 ADMINISTRATIVE FEES SCHEDULE

AMENDMENT

Subparagraph (d) of paragraph (9) of rule 1200-3-26-.02 Construction And Annual Emission Fees is amended by striking the two citations to the period "July 1, 2005, through June 30, 2006," and inserting in their places "July 1, 2006, through June 30, 2007;" striking the value "\$4,500" in the third sentence and inserting in its place the value "\$5,000" and in the third sentence striking the two citations to the period "July 1, 2005, through June 30, 2006," and inserting in their places "July 1, 2006, through June 30, 2007;" so that, as amended, the subparagraph shall read:

- (d) The rate at which major source actual-based annual emission fees are assessed shall be \$37.00 per ton for the annual accounting period July 1, 2006, through June 30, 2007. The rate at which major source allowable-based annual emission fees are assessed shall be \$26.50 per ton for the annual accounting period July 1, 2006, through June 30, 2007. Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than \$5,000 for the annual accounting period July 1, 2006, through June 30, 2007. An annual revision to these rates and the minimum fee must result in the collection of sufficient fees to fund the activities identified in subparagraph 1200-3-26-.01(1)(c). These annual rates and the minimum fee shall be supported by the Division's annual workload analysis that is approved by the Board.

Authority: T.C.A. §68-201-105 and, 4-5-202 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2006. (08-49-06)

RULEMAKING HEARINGS

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

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, acting on behalf of the Tennessee Solid Waste Disposal Control Board, to consider the adoption and promulgation of rules and amendments to rules (revision "aa") pursuant to the Tennessee Code Annotated Sections 68-212-106, 68-212-107, 68-212-108, 68-212-109, 68-212-110 and 68-212-114; the Tennessee Solid Waste Disposal Act, Tennessee Code Annotated, Section 68-211-101 et seq; the Tennessee Environmental Protection Fund Act, Tennessee Code Annotated, Section 68-203-101 et seq; the Used Oil Collection Act of 1993, Tennessee Code Annotated, Section 68-211-1001 et seq; and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 et seq. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204, and will take place in the 5th Floor Conference Room, L & C Tower, 401 Church Street, Nashville, Tennessee at 1:00 PM CDT on October 19, 2006.

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten days prior to October 19, 2006 (or the date such party intends to review such filings), to allow time to provide such aid or services. Contact the ADA Coordinator at 1-615-532-0200 for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

SUMMARY OF PROPOSED RULES

Go to http://www.tn.gov/sos/rules_hearingnotices/2006/1200/1200-01-11.notice428.pdf to view entire notice.

Rules 1200-1-11-.01 through .12 of Rule Chapter 1200-1-11 Hazardous Waste Management are amended by deleting them in their entirety and substituting the following to read as follows:

CHAPTER 1200-1-11 HAZARDOUS WASTE MANAGEMENT

- 1200-1-11-.01 Hazardous Waste Management System: General,
- 1200-1-11-.02 Identification and Listing of Hazardous Waste Disposers, and Certain Generators of Hazardous
- 1200-1-11-.03 Notification Requirements and Standards Wastes and for Certain Used Oil Facilities or Applicable to Generators of Hazardous Wastes Transporters
- 1200-1-11-.04 Requirements Applicable to Transfer Facilities and Permit Requirements and Standards Applicable to Hazardous Wastes and Specific Types of Transporters of Hazardous Waste Hazardous Waste Management Facilities
- 1200-1-11-.05 Interim Status Standards for Owners and
- 1200-1-11-.06 Standards for Owners and Operators of Hazardous [40 CFR Part 273] Waste Treatment, Storage, and Disposal Facilities
- 1200-1-11-.07 Permitting of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 1200-1-11-.08 Fee System for Transporters, Stors, Treators
- 1200-1-11-.09 Standards for the Management of Specific Operators
- 1200-1-11-.10 Land Disposal Restrictions of Existing Hazardous Waste Treatment, Storage
- 1200-1-11-.11 Standards for the Management of Used Oil and Disposal Facilities
- 1200-1-11-.12 Standards for Universal Waste Management

RULEMAKING HEARINGS

SUMMARY OF PROPOSED RULES

This rulemaking, revision "aa", includes multiple and various additions, deletions, and modifications to Rule Chapter 1200-1-11 Hazardous Waste Management. Many of these changes are proposed in response to revisions and additions published in Federal Registers that the U. S. Environmental Protection Agency (EPA) made primarily between September 8, 2005 and July 28, 2006, to the corresponding Federal Regulations. These amendments are intended to make the State's Regulations equivalent to their Federal counterparts. They also include certain technical corrections, definitions, departmental changes, clarifications, reference changes, typos, and other corrections.

Modifications in the federal regulations include finalizing the national emission standards for hazardous air pollutants and requiring hazardous waste combustors to meet them, reducing the paperwork burden imposed on states, EPA, and the regulated community, and streamlining management requirements for recycling used cathode ray tubes (CRTs) and glass removed from CRTs. These materials are being excluded from the hazardous waste definition of solid waste if certain conditions are met which encourages recycling and reuse of them. Tennessee's current procedures for obtaining and modifying permits for hazardous waste facilities appear adequate. Therefore, Tennessee has elected at this time not to adopt the EPA standardized changes published in the September 8, 2005 Federal Register.

Departmental modifications include proposing to extend facility retention time of certain records to five (5) years instead of the three (3) years proposed by EPA based on Tennessee's inspection cycles and to add "or until new analyses and characterization is made, whichever is longer " to certain ones. Also proposed is to make Class 11 permit modifications of two of the new Class I EPA modifications and Conditionally Exempt Small Quantity Generators are being required to also comply with Rule 1200-1-11-.05(9)(d) Management of Containers. Other Information

The Division has prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review only at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

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

Cookeville Environmental Field Office
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
1625 Hollywood Drive
Jackson, TN 38305
(731) 512-1300/ 1-888-891-8332

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

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

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865)594-6035/ 1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37243-1550
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

RULEMAKING HEARINGS

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

McIver's Grant Public Library
204 North Mill Street
Dyersburg, TN 38024-4631
(731) 285-5032

W. G. Rhea Public Library
400 West Washington Street
Paris, TN 38242-0456
(731) 642-1702

Hardin County Library
1013 Main Street
Savannah, TN 38372-1903
(731) 925-4314

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

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

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

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

Kingsport Public Library & Archives
400 Broad Street
Kingsport, TN 37660-4292
(423) 229-9489

Lawson McGhee Library
500 West Church Avenue
Knoxville, TN 37902-2505
(865) 215-8701

Nashville Public Library
615 Church Street
Nashville, TN 37219-2314
(615) 862-5800

Chattanooga-Hamilton Co. Bicentennial Library
1001 Broad Street
Chattanooga, TN 37402-2652
(423) 757-5320

Memphis/Shelby County Public Library-
Main Library
3030 Poplar Avenue
Memphis, TN 38111
(901) 725-8853

The "DRAFT" rules may also be accessed for review using:

<http://www.tdec.net/swm/ppo/>

Copies are also available for review at the Nashville Central Office (see address below). They may be purchased at the central office location only (\$75.00 per copy if picked up or \$84.00 per copy if mailed, which includes shipping and handling, payable in advance).

Tennessee Department of Environment and Conservation
Division of Solid Waste Management
5th Floor, L & C Tower
401 Church Street
Nashville, TN 37243-1535
(615) 532-0780

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

RULEMAKING HEARINGS

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Division of Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Mr. Gerald Ingram; 5th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0850 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, November 2, 2006 in order to assure consideration. For further information, contact Mr. Gerald Ingram at the above address or telephone number.

The notice of rulemaking set out herein was properly filed in the Department of state on the 29th day of August, 2006. (08-40-06)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400 STATE REVOLVING FUND LOAN PROGRAM

There will a hearing before the State Revolving Fund Loan Program Staff representing the Department of Environment and Conservation to hear comments from the public concerning amendments to the Priority Ranking System Rules, Chapter 1200-22-1 pursuant to T.C.A. Title 68, Chapter 221, Parts 8 and 10. The proposed amendments were drafted set forth criteria and procedures for developing and maintaining a Priority Ranking System and List for the financing of wastewater treatment works and wastewater facilities.

The hearings will be held at 1:30 p.m., local time, in the 17th Floor Conference Room 17A of the L&C Tower, 401 Church Street, Nashville, Tennessee, on Monday, October 23, 2006.

Written comments will be also considered if received at the State Revolving Fund Loan Program, L&C Tower, 8th Floor, 401 Church Street, Nashville, TN 37243 by the close of business November 3, 2006.

Individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be made in person, by writing, telephone, or other means and should be made no less than ten days prior to Monday, October 23, 2006, to allow time to provide such aid or service. Contact the ADA Coordinator, 401 Church Street, 7th Floor, L & C Tower, Nashville, TN 37243, 1-888-867-2757. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298). For a copy of the entire text of this notice of rulemaking hearing contact Sam R. Gaddipati, at the State Revolving Fund Loan Program, L&C Tower, 8th Floor, 401 Church Street, Nashville, TN 37243 or call 615-532-0445. The text of the rules may also be downloaded from the Department's website at <http://state.tn.us/environment/srf/>.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-22-1 PRIORITY RANKING SYSTEM

AMENDMENTS

Rule 1200-22-1-.01 Introduction is amended by deleting the existing language in its entirety and substituting the following language so that as amended the rule shall read:

1200-22-1-.01 INTRODUCTION. The purpose of these Rules is to set forth criteria and procedures for developing and maintaining a Priority Ranking System and List for the financing of wastewater treatment works and wastewater facilities. The Priority Ranking System, as described in this Rule, is the basis of eligibility determinations and potential allocations of financial assistance from the Department of Environment and Conservation. Pursuant to T.C.A. Title 68, Chapter 221, Parts 8 and 10, the State of Tennessee is authorized to provide financial assistance to local governments for the construction of wastewater treatment works and wastewater facilities identified on the Department's Project Priority List. Each project's Priority Rank is generated from the Project Criteria Points and the Priority Point Value (PPV) formula according to these Rules. A potential applicant's project will be placed on the Project Priority List following its evaluation and the assignment of a Priority Rank. The process of being placed on the Project Priority List may be initiated either by the Department or by written request from the potential applicant. The Department will maintain the Project Priority List.

RULEMAKING HEARINGS

Authority: T.C.A. §§68-221-704; 68-221-701 et. seq.

Rule 1200-22-1-.02 Definitions is amended by deleting the existing language in its entirety and substituting the following language so that as amended the rule shall read:

1200-22-1-.02 Definitions.

- (1) Collector Sewer. The common lateral sewers within a publicly owned treatment system that are primarily installed to receive wastewater directly from facilities that convey wastewater from individual systems or from private property. This term also includes service connections for those facilities such as the following:
 - (a) Crossover sewers that connect more than one property on one side of a major street, road, or highway to a lateral sewer on the other side when they are more cost effective than parallel sewers; and
 - (b) Pumping units and pressurized lines serving individual structures or groups of structures when such units are cost effective and are owned and maintained by the municipality or utility district.

This definition excludes all facilities that convey wastewater from individual structures or from private property to the public lateral sewer.

- (2) Combined Sewer Overflow (CSO). The discharge from a sewer that is designed as a sanitary sewer and a storm sewer.
- (3) Conventional Pollutants. The conventional pollutants in wastewater effluent are 5-day biochemical oxygen demand (BOD₅) and/or 5-day carbonaceous biochemical demand (CBOD₅), ammonia nitrogen (NH₃-N) and/or total nitrogen (N-Total), phosphorus (P), dissolved oxygen (DO), fecal coliform and/or E. coli, total suspended solids (TSS), settleable solids (SS), and pH.
- (4) Effluent Trading Projects. Effluent or water quality trading is an innovative approach to achieve water quality goals more efficiently. Trading is based on the fact that sources in a watershed can face very different costs to control the same pollutant. Trading programs allow facilities facing higher pollution control costs to meet their regulatory obligations by purchasing environmentally equivalent or superior pollution reductions from another source at lower cost, thus achieving the same water quality improvement at lower overall cost.
- (5) Infiltration/Inflow (I/I) Correction. Procedures to reduce or eliminate infiltration/inflows that do not involve extensive excavation and/or replacement, including, but not limited to, the following:
 - (a) Pressure testing and sealing procedures;
 - (b) Limited excavation and replacement where severe infiltration/inflow problems have been documented and can be corrected. Examples of limited excavation and replacement are the replacement or repair of manhole covers, the repair of crushed pipe within an area of temporary or permanent groundwater, or the replacement or repair of a sewer segment beneath a waterway; and
 - (c) Trenchless technologies such as sliplining, pipe bursting, cured in-place pipe, etc.
- (6) Interceptor Sewer (Interceptors). A sewer that is designed for one or more of the following purposes:

RULEMAKING HEARINGS

- (a) To intercept wastewater from a final point in a collector sewer and convey the wastewater directly to a treatment facility or another interceptor;
 - (b) To replace an existing wastewater treatment facility and transport the wastewater to an adjoining collector sewer or interceptor sewer for conveyance to a treatment plant;
 - (c) To transport wastewater from one or more municipal collector sewers to another municipality or to a regional plant for treatment; or
 - (d) To intercept an existing major discharge of a raw or inadequately treated wastewater for transport directly to another interceptor or a treatment plant.
- (7) Local Government. A county, incorporated town or city, metropolitan government, water and/or wastewater authority, or state agency that has authority to administer a wastewater facility, or any combination of two or more of the foregoing acting jointly to construct a wastewater facility. "Local government" shall also mean any publicly owned utility district existing on July 1, 1984, or if created after that date, any publicly-owned utility district operating a wastewater facility with at least 500 customer connections.
- (8) Major Sewer Rehabilitation. Construction that involves the removal and replacement of the existing pipes or manholes. This definition is considered applicable for this Chapter under one or more of the following conditions:
- (a) In locations where pipes or manholes have lost their structural integrity, e.g., pipes or manholes are collapsed, broken, or badly deteriorated and cracked;
 - (b) In cases where pipe size enlargement, change in grade, and/or line realignment are needed in addition to pipe deficiency corrections; or
 - (c) In cases where damages to the existing pipes or manholes have been attributed to corrosion, soil movement, an increasing traffic load, or other similar factors, and it is desirable to prevent the recurrence of these damages by replacing the existing structures with structures of better quality and greater strength.
- (9) National Pollutant Discharge Elimination System (NPDES) Permit. A permit issued by the Tennessee Department of Environment and Conservation, Division of Water Pollution Control, to discharge treated wastewater into a body of water.
- (10) Nonpoint Source (NPS) Pollution. Pollution occurring when precipitation moves over and through the ground, picking up and carrying away pollutants, and depositing them into waters of the state.
- (11) Permit Limits. Limitations for pollutants discharged from WWTPs that are identified in an authorization, license, or equivalent control document issued by the Division of Water Pollution Control that implements the requirements of the Tennessee Water Quality Control Act.
- (12) Planning/Design. Facilities planning consists of those necessary plans and studies directly relating to existing and future conditions and effects of wastewater facilities or treatment works as outlined in the application requirements of the Departmental Rule 1200-22-6-.06. Design consists of creating those necessary bid/contract documents, plans, and specifications for the construction of wastewater facilities or treatment works consistent with the approved facilities plan and necessary to construct the proposed wastewater facilities.

RULEMAKING HEARINGS

- (13) Pump Station/Force Main. A pump station is a mechanical device that raises and transfers wastewater. A force main is a pipe conveyance system for wastewater that is under hydraulic pressure due to energy imparted by a pump.
- (14) Refinancing. A project previously constructed for which State Revolving Fund Loan Program funds may buy or refinance local debt obligations where the initial debt was incurred after March 7, 1985. Projects that have incurred debt using their own means of financing must have met the requirements of Chapter 1200-22-6 in order to eligible for refinancing.
- (15) Stormwater Projects. Projects that will convey, store, and/or treat accumulated surface flow water from precipitation.
- (16) Wastewater Treatment Plant (WWTP). Any facility whose purpose is to store, treat, neutralize, stabilize, recycle, reclaim, or dispose of municipal sewage or wastewater.
- (17) Water-Quality Limited Stream Segment. Any stream segment such as those listed on the 303(d)-list or others as defined by the Division of Water Pollution Control where it is known that water quality does not meet applicable water quality standards and/or the segment is not expected to meet applicable water quality standards even after the application of the technology-based effluent limitations required by Sections 301(b) and 306 of the Clean Water Act.

All other terms used in this Chapter are as defined in Chapter 1200-22-6 unless the context requires otherwise.

Authority: T.C.A. §§68-221-704; 68-221-701 et. seq.

Rule 1200-22-1-.03 Priority Ranking, Project Criteria Points, And Priority Point Value (PPV) Formula is amended by deleting the existing language in its entirety and substituting the following language so that as amended the rule shall read:

1200-22-1-.03 PRIORITY RANKING, PROJECT CRITERIA POINTS, AND PRIORITY POINT VALUE (PPV) FORMULA.

- (1) General Provisions for Priority Ranking, Project Criteria Points, and Priority Point Value (PPV) Formula.
 - (a) Purpose. The Priority Ranking System defined in Rule 1200-22-1-.03(2) has been developed to achieve optimum water quality management consistent with the goals and requirements of the Clean Water Act and the Tennessee Water Quality Control Act. Municipal wastewater treatment projects and terms as defined in Section 212 of the Clean Water Act such as WWTP upgrades, collection system rehabilitation, infiltration and inflow correction projects, new collector sewers, and combined sewer overflow elimination projects and nonpoint source projects as defined in Section 319 of the Clean Water Act may be eligible for funding in accordance with these Rules.
 - (b) Priority Ranking. All proposed projects for which the potential loan recipient has requested financial assistance will be assigned Project Criteria Points based on the project criteria defined in Rule 1200-22-1-.03(2). WWTP projects may be assigned additional points based on the Priority Point Value (PPV) formula delineated in Rule 1200-22-1-.03(3).
 - (c) Combined Project Priority Ranking.

RULEMAKING HEARINGS

1. When a potential loan recipient operates or proposes to operate more than one WWTP, the PPV will be independently calculated for each WWTP discharge point on the basis of data specific to each WWTP's discharge point.
 2. When more than one project appears on the Priority List and those projects are an integral part of the cost-effective solution for one facilities planning area, each of the projects may be assigned the same Priority Point Value as the WWTP that will receive and treat the combined wastewater flow.
- (2) Project Criteria Points. Project Criteria Points will be assigned to individual wastewater facilities projects based on the following:
- (a) WWTP discharges to a water-quality limited stream segment will receive 100 Project Criteria Points in addition to any other applicable Project Criteria Points. WWTP projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points.
 - (b) Wastewater collection system projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points.
 - (c) Nonpoint Source (NPS) pollution projects affecting a water-quality limited stream segment will receive 100 Project Criteria Points. Other NPS pollution projects will receive 25 Project Criteria Points. NPS pollution projects may be directed toward protection or improvement of the quality of ground water, surface water, or wetlands. NPS pollution projects must be consistent with Tennessee's approved Nonpoint Source Management Program requirements and be included in the State's current EPA-approved Nonpoint Source Management Plan.
 - (d) Effluent-trading projects will receive 50 Project Criteria Points in addition to any other applicable Project Criteria Points.
 - (e) Combined Sewer Overflow (CSO) projects will receive 25 Project Criteria Points.
 - (f) Infiltration/Inflow (I/I) correction projects and major sewer rehabilitation projects will receive 25 Project Criteria Points. Construction of projects that will transport and treat I/I at the WWTP will receive 10 points.
 - (g) Storm water management projects affecting a water-quality limited stream segment will receive 100 Project Criteria Points. Storm water management projects with a compliance schedule in the NPDES permit requiring construction will receive 50 Project Criteria Points. All other storm water management projects will receive 25 Project Criteria Points.
 - (h) Collection lines to be constructed to address an existing public health problem caused by failed septic systems will receive a minimum of 40 Project Criteria Points up to a maximum of 100 Project Criteria Points. If a Department-certified septic system failure system survey utilizing either color infrared aerial photography or ground inspections has been conducted in the project area, Project Criteria Points may be obtained by multiplying the percentage of failing systems by the 100-point maximum Project Criteria Points as follows:

$$\text{Project Criteria Points} = 100 \times \text{Department-certified percent of septic systems failing}$$

RULEMAKING HEARINGS

Proposed projects will receive a minimum of 40 Project Criteria Points if they are in an area where a Department-certified septic system failure survey was not conducted or where the percentage of failing septic systems was less than 40 percent.

- (i) Any wastewater project proposed for development and/or growth potential, i.e., projects that were not planned to address a water quality problem or a public health problem, will receive 5 Project Criteria Points. WWTPs that are required to serve new collectors as part of the approved facilities plan will receive the same Project Criteria Points as the collectors.
 - (j) Interceptors and pump stations will receive varying Project Criteria Points. Interceptors and/or pump stations that eliminate a WWTP discharge point that was included in an approved facilities plan will receive the same Project Criteria Points as the WWTP. Interceptors and/or pump stations proposed as part of an I/I elimination project will receive the same Project Criteria Points as an I/I elimination project. Interceptors and/or pump stations proposed as part of a collection system project will receive the same Project Criteria Points as the collection system project.
 - (k) Planning/Design projects will receive Project Criteria Points based upon the proposed project type.
 - (l) Section 212 projects that are also associated with the construction of nonpoint source projects shall have an additional 20 points.
 - (m) Section 212 projects with zoning that demonstrates preservation of greenspace shall have an additional 15 points.
 - (n) Section 212 projects with zoning that demonstrates riparian buffer zones of at least 150 feet shall have an additional 10 points.
 - (o) Section 212 projects demonstrating an enforced buffer zone ordinance shall have an additional 5 points.
 - (p) Refinancing projects will receive 1 Project Criteria Point.
 - (q) In accordance with T.C.A. 6-58-109(b), all State Revolving Fund projects within Counties that have an approved growth plan will receive 5 Project Criteria Points in addition to any other applicable Project Criteria Points.
- (3) Priority Point Value (PPV) Formula.
The PPV formula assigns numerical points to a specific WWTP project based on the product of the Receiving Stream Hydraulic Factor (RSHF), Severity of Pollution Factor (SPF), and Water Quality Improvement Factor (WQIF), as follows:
 $PPV = (RSHF) \times (SPF) \times (WQIF)$
- (a) The RSHF will be determined based on the ratio of plant discharge to stream flow using the following equation:

$$RSHF = 1.0 + \frac{\text{Plant Flow}}{\text{Stream Flow} + \text{Plant Flow}}, \text{ where}$$

RULEMAKING HEARINGS

1. Stream flow is the lowest stream flow measured upstream of the WWTP discharge for any 7 consecutive days in a 10-year period. The Department may allow the use of the dilution flow for impoundments.
 2. Plant flow is the average daily flow reported on Monthly Operating Reports or Discharge Monitoring Reports submitted to and certified by the Department.
- (b) The SPF will be determined based upon whether violations of the WWTP's permit limits have occurred. The SPF will be determined using the following equation:

SPF = 1.0 + The sum of point values from the following effluent parameters:

1. Biochemical Oxygen Demand, 5-Day (BOD₅) and/or Carbonaceous Biochemical Oxygen Demand (CBOD₅)

If the actual BOD₅ and/or CBOD₅ concentration in the WWTP effluent has exceeded the permit limit for BOD₅ and/or CBOD₅ for two consecutive months or three or more times during the last year, the project receives 1.0 point
2. Total Nitrogen (N-Total) and/or Ammonia Nitrogen (NH₃-N) Violation

If the actual N-Total and/or NH₃-N concentration in the WWTP effluent has exceeded the permit limit for N-Total and/or NH₃-N for two consecutive months or three or more times during the last year, the project receives..... 1.0 point
3. Phosphorous (P) Violation

If the actual P concentration in the WWTP effluent has exceeded the permit limit for P for two consecutive months or three or more times during the last year, the project receives..... 1.0 point
4. Dissolved Oxygen (DO) Violation

If the actual DO concentration in the WWTP effluent has been less than the minimum permit limit for DO for two consecutive months or three or more times during the last year, the project receives..... 0.5 points
5. Fecal Coliform and/or E. coli Violation

If the actual fecal coliform and/or E. coli concentration has exceeded the permit limit for fecal coliform and/or E. coli for two consecutive months or three or more times during the last year, the project receives..... 1.0 point

- (c) The WQIF will be determined based on whether or not the receiving stream is a water-quality limited stream segment and the receiving stream's designated stream-use classification(s) for recreation, fish and aquatic life, and/or domestic water supply.

The WQIF is the number obtained from the equation:

$$WQIF = 1.0 + F + G + H, \text{ where}$$

RULEMAKING HEARINGS

1. Recreation, denoted as F, is assigned a numerical value based upon the following:
 - (i) If the existing effluent violates recreational bacterial standards (Chapter 1200-4-3) and causes a significant adverse impact on the receiving waters beyond the mixing zone or precludes the actual use of the receiving waters for body contact recreation beyond the mixing zone, the recreation factor F will be assigned.....2 points
 - (ii) If there is no significant impact on recreation, F will be assigned.....0 points
2. Fish and Aquatic Life, denoted as G, is assigned a numerical value based upon the following:
 - (i) If the existing effluent contains one or more conventional pollutants in excess of the permit limits established by the Department or contained in the WWTP's NPDES Permit or results in violations of the dissolved oxygen standard for fish and aquatic life (Chapter 1200-4-3) in the receiving waters beyond the mixing zone, G will be assigned a value of.....3 points
 - (ii) If there is no significant impact on fish and aquatic life, G will be assigned a value of0 points
3. Domestic Water Supply, denoted as H, is assigned a numerical value based upon the following:
 - (i) If the existing effluent contains one or more conventional pollutants in concentrations exceeding the domestic water supply standard (Chapter 1200-4-3) in waters affecting an existing community water treatment plant, H will be assigned a value of.....4 points
 - (ii) If there is no significant adverse impact on domestic water supply, H will be assigned a value of.....0 points
4. No WQIF points will be awarded for F, G, and H if the existing treatment facility is not operated and maintained properly, as determined by the Department's evaluation of the facility's operation and maintenance.

Authority: T.C.A. §§68-221-701 et. seq.

AMENDMENTS

Rule 1200-22-1-.04 Program Management is amended by deleting the existing language in its entirety and substituting the following language so that as amended the rule shall read:

1200-22-1-.04 PROGRAM MANAGEMENT.

- (1) The assigned Project Criteria Points and the calculated Priority Point Value are applicable only to WWTP projects and will be summed to establish a proposed project's Priority Rank. Projects will be placed on the Priority Ranking List in ascending order by Priority Rank, i.e., in descending order by total project priority points.

RULEMAKING HEARINGS

- (2) When the project is placed on the Priority Ranking List, the potential loan recipient is responsible for providing a written detailed project description, a schedule of events, and an up-to-date project cost estimate to the Department. The Department may request adjustments to the cost estimate at its discretion.
- (3) The Department will use the project cost estimates on the Priority Ranking List to allocate available funds to as many potential loan recipients as possible in order to protect public health and the environment. The Department may limit the award amount per loan in order to provide funds to more potential loan recipients.
- (4) The priority of available funds will be assigned to those projects with the highest Priority Rank on the Priority Ranking List with preference given to those projects that are ready to proceed.
- (5) The Department may bypass projects on the Priority Ranking List that are not ready to proceed. The Department may also bypass projects if a completed loan application has not been received within 90 days after notification from the Department to the potential loan recipient that failure to submit the completed application will result in a bypass.
- (6) Proposed projects with a lower Priority Rank may be fundable by virtue of bypass. Preference will be given to those lower-ranked projects that are ready to proceed and that will make progress towards compliance with the enforceable requirements of the Clean Water Act.
- (7) Projects may be purged from the Priority Ranking List annually, on April 15. Projects may be reinstated to the Priority Ranking List upon the Department's receipt of a letter requesting the reinstatement. The letter must also include a written, detailed project description and an up-to-date project schedule and cost estimate.
- (8) The Department will remove a project from the Priority Ranking List prior to April 15 annually when financial assistance has been awarded or upon receipt of a written request from the potential loan recipient that they no longer want to include their project on the Priority Ranking List.

The Department will remove a project from the Priority Ranking List prior to April 15 annually when financial assistance has been awarded or upon receipt of a written request from the potential loan recipient that they no longer want to include their project on the Priority Ranking List.

Authority: *T.C.A. 68-221-701 et. seq.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2006. (08-50-06)

RULEMAKING HEARINGS

TENNESSEE ETHICS COMMISSION - 0580

There will be a hearing before the Tennessee Ethics Commission to consider the promulgation of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204 and 3-6-301. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Annotated, Section 4-5-204, and will take place in the Tennessee Ethics Commission's conference room located on the Eighth (8th) Floor of the Snodgrass Building located at 312 Eighth Avenue North, Nashville, Tennessee at 8:30 a.m. (CDT) on the 31st day of October, 2006.

Any individuals with disabilities who wish to participate in these proceedings should contact the Tennessee Ethics Commission to discuss any auxiliary aides or services needed to facilitate such participation. Such contact may be in person or by writing and should be made no less than ten (10) days prior to the hearing date to allow time for the Commission to determine how it may reasonably provide such aid or service. Contact: Bruce Androphy, Director, Tennessee Ethics Commission, 312 Eighth Avenue North, 8th Floor Snodgrass Tower, Nashville, TN 37243, (615) 741-7008

All interested persons or their representatives should submit their facts, views or arguments in writing to the Commission no less than ten (10) days prior to the hearing date, regardless of whether or not such persons intend to make an oral presentation at the hearing.

For a copy of the entire text of this notice of rulemaking hearing contact: Janet M. Kleinfelter, Office of the Attorney General, 425 5th Avenue North, Nashville, Tennessee 37243, (615) 741-7403.

SUBSTANCE OF PROPOSED RULES

CHAPTER 0580-1 RULES PERTAINING TO LOBBYISTS AND EMPLOYERS OF LOBBYISTS

TABLE OF CONTENTS

0580-1-1-.01	Definitions
0580-1-1-.02	Lobbyist Registration
0580-1-1-.03	Employer of Lobbyist Registration
0580-1-1-.04	Volunteer Lobbyist and Employer Registration
0580-1-1-.05	Filing of Employer Disclosure Reports
0580-1-1-.06	Filing of Lobbyist Disclosure Reports
0580-1-1-.07	Informal Show Cause Hearings
0580-1-1-.08	Issuance and Appeal of Civil Penalty Assessment Orders
0580-1-1-.09	Reconsideration of Issuance of Civil Penalty Assessment Orders
0580-1-1-.10	Issuance of Advisory Opinions by Commission
0580-1-1-.11	Audits

0580-1-1-.01 DEFINITIONS.

- (1) "Administrative Action" means the making of any recommendation, report or non-ministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, "administrative action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government.

RULEMAKING HEARINGS

- (2) “Association” means any union, league, chamber of commerce, committee, club, or other membership organization.
- (3) “Attorney General” means the attorney general and reporter.
- (4) “Audit and investigatory information” means data pertaining to the nature, source, or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, furnished to, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, the provisions of this part. “Audit and investigatory information” does not include data in a form which cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist.
- (5) “Campaign contribution” means any contributions as defined by § 2-10-102(4).
- (6) “Candidate for public office” means any individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one should be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person’s nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch.
- (7) “Compensation” means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, “compensation” does not include the salary or reimbursement of an individual whose lobbying is incidental to such person’s regular employment.
- (8) “Employer of a lobbyist” or “employer” means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. “Employer of a lobbyist” or “employer” specifically includes any such person or entity notwithstanding the lobbyist’s status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. “Employer of a lobbyist” or “employer” does not include the individual employees, officers, directors or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. “Employer of a lobbyist” or “employer” does not include any such person or entity that employs, retains or otherwise arranges for one or more persons to engage in lobbying if the only compensation paid is reimbursement for actual out-of-pocket expenses for not more than ten (10) days per lobbyist per registration year. For purposes of employer registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm.
- (9) “Executive agency” means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch.
- (10) “Expenditure” means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge or subscription of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure.

RULEMAKING HEARINGS

- (11) "Gift" means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or service, unless consideration of equal or greater value is received. "Gift" does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar.
- (12) "Immediate family" means a spouse or minor child living in the household.
- (13) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch.
- (14) "Legislative action" means introduction, sponsorship, debate, voting or any other non-ministerial official action or non-action on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly.
- (15) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action. "Lobby" does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or ruling making procedure; or an editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public. "Lobby" does not mean communications by an incumbent or prospective contractor or vendor, or an employee of such contractor or vendor, while engaged in selling or marketing to the state, or any department or agency of the state, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information; provided that any such contractor or vendor or employee thereof shall be deemed to be a lobbyist solely for the purposes of §§ 3-6-304 and 3-6-305. "Lobby" does not mean communications by an employee of a school board, municipal utility, utility district, or any department, agency or entity of state, county or municipal government; provided, however, if the board, utility, district, department, agency or entity employs, retains or otherwise arranges for lobbyist services in this state by a contractor, subcontractor or other representative, who is not an employee of such board, utility, district, department, agency or entity, then "lobby" includes communications by such contractor, subcontractor or other representative and such contractor, subcontractor or other representative shall comply with the lobbying registration and other provisions of this chapter pertaining to lobbyists; provided further, however, the board, utility, district, department, agency or entity which employs such contractor, subcontractor or other representative is not deemed to be an employer of a lobbyist for purposes of this chapter. "Lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan or incentive pursuant to §§ 4-3-701 - 4-3-733; and "lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to any component of an economic development incentive package, provided that any such person who is otherwise required to register as a lobbyist under the provisions of this act shall not be deemed to fall within this exception.

RULEMAKING HEARINGS

- (16) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation.
- (17) "Lobbyist" means any person who engages in lobbying for compensation. "Lobbyist" does not include any person who engages in lobbying for compensation if the only compensation received is reimbursement for actual out-of-pocket expenses for ten (10) days or less per registration year.
- (18) "Ministerial action" means any action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person's own judgment upon the propriety of the action being taken.
- (19) "Official in the executive branch" means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee Regulatory Authority, or any member or employee of any executive department or agency or other state body in the executive branch.
- (20) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action. "Official in the legislative branch" also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices.
- (21) "Out-of-Pocket Personal Expenses" includes things such as lobbyist registration fee, legislative information services material, copying expenses, transportation costs, parking fees, personal lodging and food expenses incurred while actually engaged in lobbying.
- (22) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.
- (23) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

Authority: T.C.A. §§ 3-6-308(a)(9) and 3-6-301

0580-1-1-.02 LOBBYIST REGISTRATION.

- (1) Within seven (7) days of becoming employed as a lobbyist, a lobbyist shall register with the Commission and provide the following information:
 - (a) Name, complete business address, telephone number and e-mail address;
 - (b) Name, complete business address, telephone number and e-mail address of each employer the lobbyist is authorized to represent;
 - (c) Subject matters lobbied for each employer during the registration year, as indicated among the general categories listed by the Commission on the registration statement;
 - (d) Name and business address of any member of the lobbyist's immediate family who is an official within the legislative or executive branch; and
 - (e) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office of any official in the legislative or executive branch.

RULEMAKING HEARINGS

- (2) A person who registers as a lobbyist shall update, correct or otherwise modify his or her lobbyist's registration statement within seven (7) days after the occurrence of any event, action or changed circumstances that renders the registration statement inaccurate or incomplete.
- (3) A person who registers as a lobbyist shall, within thirty (30) days after registration, submit a current photographic portrait to the Commission; however, no portrait is required for any updates, corrections or modifications to a lobbyist's registration statement during the current registration year.
- (4) A person who registers as a lobbyist shall, within thirty (30) days after registration, submit a fee to the Commission in the amount of one hundred and fifty dollars (\$150.00) per employer. This fee shall not be subject to refund.
- (5) A lobbying firm may elect to file a consolidated lobbyist registration statement and amendments to lobbyist registration statement on behalf of all partners, associates and employees within the firm who engage in lobbying activity.
 - (a) Any such consolidated lobbyist registration statement and amendments thereto shall list each partner, associate and employee of the firm individually and shall provide the same information required for an individual person registering as a lobbyist.
 - (b) A photographic portrait of each partner, associate and employee of the lobbying firm shall be submitted to the Commission within thirty (30) days after filing of such consolidated lobbyist registration statement.
 - (c) A fee in the amount of one hundred and fifty dollars (\$150.00) per employer for each partner, associate and employee of the lobbying firm shall be submitted to the Commission within thirty (30) days after filing such consolidated lobbyist registration statement. These fees shall not be subject to refund.
 - (d) Each partner, associate and employee of the lobbying firm shall remain individually liable for the timeliness and accuracy of such consolidated lobbyist registration statement and any amendments to such consolidated lobbyist registration statement, as well as the timeliness of submission of the photographic portrait and registration fee.
- (6) A person who registers as a lobbyist shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyists' employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-302, 3-6-304 and 3-6-305

0580-1-1-.03 EMPLOYER OF LOBBYIST REGISTRATION

- (1) Within seven (7) days of becoming an employer of a lobbyist, the employer shall register with the Commission and provide the following information:
 - (a) Name, complete business address, telephone number and e-mail address;
 - (b) If the registrant is a corporation, association or government entity, the names of the individuals performing the functions of chief executive officer and chief financial officer;

RULEMAKING HEARINGS

- (c) Name, complete business address, telephone number and e-mail address of each lobbyist authorized to represent the employer; and
 - (d) Verification of delivery, by each lobbyist authorized to represent the employer, of the Commission's manual for lobbyists and employers of lobbyists as required by T.C.A. § 3-6-114(c)(1).
- (2) An employer of a lobbyist shall update, correct or otherwise modify the employer of lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstances that renders the registration statement inaccurate or incomplete.
 - (3) An employer of a lobbyist shall, within thirty (30) days of registration, submit a fee to the Commission in the amount of one hundred and fifty dollars (\$150.00) per lobbyist. This fee shall not be subject to refund.
 - (4) An employer of a lobbyist who registers as such with the Commission shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-302, 3-6-304 and 3-6-305

0580-1-1-.04 VOLUNTEER LOBBYIST AND EMPLOYER REGISTRATION.

- (1) A person who receives as compensation for lobbying reimbursement for actual out-of-pocket expenses for more than ten (10) days per registration year shall be required to register as a lobbyist, including the submission of a photographic portrait and registration fee in the amount of one hundred and fifty dollars (\$150.00) within thirty (30) days after registration. Such person shall also be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.
- (2) Any person or entity who employs, retains or otherwise arranges for one or more persons to engage in lobbying for compensation which is reimbursement for actual out-of-pocket expenses for more than ten (10) days per person per registration year shall be required to register as an employer of a lobbyist and pay the registration fee in the amount of one hundred and fifty dollars (\$150.00) within thirty (30) days after registration. Such person or entity shall also be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-304, 3-6-305 and 3-6-307.

0580-1-1-.05 FILING OF EMPLOYER DISCLOSURE REPORTS.

- (1) Each employer of a lobbyist shall electronically file an employer disclosure report with the Commission on the dates and for the reporting periods specified below:
 - (a) Mid-year. An employer of lobbyist shall file a mid-year employer disclosure report no later than May 15. Such report shall cover the period from and including October 1 through March 31.

RULEMAKING HEARINGS

- (b) Year-end. An employer of lobbyist shall file a year-end employer disclosure report no later than November 14. Such report shall cover the period from and including April 1 through September 30.
- (2) Each employer of a lobbyist shall electronically file a disclosure report within thirty (30) days following an event permissible under T.C.A. § 3-6-305(b)(8). Such disclosure report shall contain the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty (\$50) dollars per person per day excluding sales tax and gratuity.
 - (a) If the costs of an event permissible under T.C.A. § 3-6-305(b)(8) are shared by two (2) or more employers, a consolidated report may be filed by the employers with the Commission.
 - (b) Any consolidated disclosure report filed with the Commission shall specify the allocation of costs among the employers; however, such employers shall remain individually accountable for the timeliness and accuracy of the consolidated filing.
- (3) A document delivered to the Commission office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except state holidays), 8:00 a.m. through 4:30 p.m.
- (4) When the filing deadline for an employer disclosure report falls on a weekend or a state holiday, resulting in the closing of the Commission office, the disclosure report is to be filed with the Commission by the employer on the next business day.
- (5) All employer disclosure reports shall, at a minimum, include the following information:
 - (a) aggregate total amount of lobbyist compensation paid by the employer for the reporting period in accordance with the ranges set forth in T.C.A. § 3-6-303;
 - (b) aggregate total amount of employer expenditures, excluding lobbyist compensation, incurred for the purpose of influencing legislative or administration action through public opinion or grassroots action, in accordance with the ranges set forth in T.C.A. § 3-6-303;
 - (c) aggregate total amount of all employer expenditures for any event permissible under T.C.A. § 3-6-305(b)(8).

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-303 and 3-6-305(b)(8).

0580-1-1-.06 FILING OF LOBBYIST DISCLOSURE REPORT.

- (1) Each lobbyist shall electronically file a disclosure report within thirty (30) days following an event permissible under T.C.A. § 3-6-305(b)(8). Such disclosure report shall contain the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty (\$50) dollars per person per day excluding sales tax and gratuity.
 - (a) If the costs of an event permissible under T.C.A. § 3-6-305(b)(8) are shared by two (2) or more lobbyists, a consolidated report may be filed by the lobbyists with the Commission.

RULEMAKING HEARINGS

- (b) Any consolidated disclosure report filed with the Commission shall specify the allocation of costs among the lobbyists; however, such lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing.
- (2) A document delivered to the Commission office after normal business hours shall be considered filed at the beginning of the next business day. Normal business hours shall be considered Monday through Friday (except state holidays), 8:00 a.m. through 4:30 p.m.
- (3) When the filing deadline for a lobbyist disclosure report falls on a weekend or a state holiday, resulting in the closing of the Commission office, the disclosure report is to be filed with the Commission by the employer on the next business day.

Authority: T.C.A. §§ 3-6-308(a)(9) and 3-6-305(b)(8).

0580-1-1.07 INFORMAL SHOW CAUSE HEARINGS.

- (1) When Commission staff presents documentation to the Commission indicating that a lobbyist or employer of a lobbyist has possibly violated the Tennessee Lobbyist Registration and Disclosure Law and before the Commission takes action to assess civil penalties for a violation, the Commission shall send a written notification to the lobbyist of the allegations and the class and maximum amount of civil penalties or other administrative sanction which would be assessed for such a violation. Additionally, this notification shall inform the lobbyist or employer of the date, place and time of the Commission's next regularly scheduled meeting and provide the lobbyist or employer the opportunity to choose one (1) of the following options:
 - (a) The lobbyist or employer, or designee of the lobbyist or employer, shall be provided an opportunity to personally appear before the Commission at its next regularly scheduled meeting to show why civil penalties or other administrative sanction should not be assessed; or
 - (b) The lobbyist or employer, or designee of the lobbyist or employer, must be provided an opportunity to submit a sworn statement to the Commission which has been sworn to before a notary public, along with any pertinent attachments, to show why civil penalties or administrative sanction should be not assessed.
- (2) The opportunity provided to a lobbyist or employer, or the designee of a lobbyist or employer, to personally appear before the Commission or to submit a sworn statement for the Commission's consideration as to whether to assess civil penalties or other administrative sanction against the lobbyist or employer is not in lieu of any contested case hearing rights that the lobbyist or employer may have pursuant to Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq.
- (3) In order for a lobbyist or employer, or designee of a lobbyist or employer, to take advantage of the opportunity to personally appear before the Commission at its regularly scheduled meeting, the candidate or committee must request such an appearance in writing at least five (5) business days prior to the Commission meeting. A lobbyist or employer has the right to appear with legal counsel at the Commission meeting.
- (4) In order for a lobbyist or employer, or the designee of a lobbyist or employer, to take advantage of the opportunity to submit a sworn statement, along with any pertinent attachments for the Commission's determination as to whether to assess civil penalties or other administrative sanction, the sworn statement and any attachments must be received in the Commission's office no later than one (1) hour prior to the starting time of the Commission's meeting in order to have the information to be considered by the Commission.

RULEMAKING HEARINGS

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306.

0580-1-1-.08 ISSUANCE AND APPEAL OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) A civil penalty order issued by the Commission assessing penalties against a lobbyist or employer cannot be issued unless a majority of the Commission members present have voted that such an order be issued. Once a majority of the Commission members have voted that such an order should be issued, the chairperson or executive director shall have the authority to issue the order on behalf of the Commission.
- (2) A civil penalty order assessing civil penalties shall be mailed by registered or certified mail or by overnight mail delivery to the lobbyist or employer to whom the order is issued, and the party to whom it is issued shall be provided thirty (30) days from the date of the issuance of the order to either appeal the Commission's order pursuant to the procedures provided for under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq., or to pay the assessed penalties to the Commission.
- (3) In order for a lobbyist or employer to appeal an order issued by the Commission assessing civil penalties, the lobbyist or employer shall file a petition with the Commission. This petition shall be considered a request for a contested case hearing pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5301, et seq.
- (4) If the Commission's order assessing civil penalties is not appealed within thirty (30) days of its issuance by the lobbyist or employer to whom it was issued, the order becomes a final order.
- (5) If a lobbyist or employer fails either to appeal a civil penalty order issued to it by the Commission or to pay the Commission the assessed civil penalties and the Commission's order becomes final without the party taking any such action, upon the order becoming final, the Commission shall forward the matter to the State Attorney General and Reporter's office. The Commission shall request that the Attorney General take legal action on its behalf to collect the civil penalties from the lobbyist or employer against whom the action has been taken.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306.

0580-1-1-.09 RECONSIDERATION OF THE ISSUANCE OF CIVIL PENALTY ASSESSMENT ORDERS.

- (1) If a lobbyist or employer against whom a civil penalty assessment order has been issued by the Commission wishes to request that the Commission reconsider the matter, the lobbyist or employer must follow these procedures to have the Commission consider the request:
 - (a) The lobbyist or employer must file a written request with the Commission asking that the assessment of civil penalties against the lobbyist or employer be reconsidered by the Commission. The written request for reconsideration must be filed with the Commission within fourteen (14) days of the date of the issuance of the Commission's order assessing civil penalties. Failure to timely file such a request for reconsideration shall result in automatic denial of the request.
 - (b) For a written request for reconsideration to be considered by the Commission, the lobbyist or employer must include additional information concerning the matter that was not available

RULEMAKING HEARINGS

for the Commission's consideration at its meeting at which the civil penalty order was issued by the Commission. If no additional information is included in the request for reconsideration, the Commission may choose not to reconsider the matter.

- (c) If the lobbyist or employer files a written request for reconsideration of an assessment of civil penalties with the Commission and asks to make a personal appearance before the Commission at a regularly scheduled meeting and, without good cause, fails to appear at that meeting without having notified the Commission prior to the meeting, the Commission will deny the request for reconsideration.
- (2) While a request for reconsideration of a civil penalty order by a lobbyist or employer is pending before the Commission, the Commissioner's order assessing penalties does not become final until a determination is made by the Commission as to the request for reconsideration. Upon a vote of a majority of the Commission members to deny a lobbyist's or employer's request for reconsideration of any civil penalty assessment order, the Commission shall issue an order denying the request and providing the lobbyist or employer ten (10) days after the date of the issuance of the order to appeal the original assessment order under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq. before the order becomes a final order.

Authority: T.C.A. §§ 3-6-308(a)(9), 3-6-306.

0580-1-1-.10 ISSUANCE OF ADVISORY OPINIONS BY COMMISSION.

- (1) A lobbyist or employer of a lobbyist may submit to the Commission a written request for an advisory opinion as to the application of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law. In submitting such a request, the lobbyist or employer shall include a complete description of all facts relevant to the specific transaction or activity which is the subject of the opinion request.
- (2) After reviewing a lobbyist's or employer's request for an advisory opinion and if the Commission staff determines that more information from the lobbyist or employer is necessary in order for the Commission to properly respond to the request, the staff shall notify the lobbyist or employer of the additional information which should be submitted to the Commission.
- (3) After reviewing a lobbyist's or employer's advisory opinion request and upon determining that the request presents essentially the same fact situation or proposed activity which was the subject of an advisory opinion previously issued by the Commission, the staff may recommend to the Commission at its next regularly scheduled meeting that a copy of that earlier opinion be sent to the lobbyist or employer, in lieu of issuing a new opinion. If at least four (4) of the members of the Commission present and voting at the meeting vote to adopt the staff's recommendation, a copy of the previous opinion shall be mailed to the lobbyist or employer with a memorandum explaining that the analysis and conclusion(s) contained in that previous opinion are applicable to the activity being proposed by the lobbyist or employer. However, if at least four (4) of the members present and voting at the meeting determine that a new advisory opinion should be issued addressing the lobbyist's or employer's request, the procedures outlined in paragraph (4) through (7) of this rule shall be followed in issuing the opinion, where applicable.
- (4) The Commission staff shall review the question presented in the lobbyist's or employer's request and research the applicable provisions of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law. A draft of an advisory opinion shall be presented to the members of the Commission at the Commission's next meeting, with a recommendation from the staff. After reviewing

RULEMAKING HEARINGS

the draft, the members of the Commission present at the meeting shall then vote as to whether to issue the opinion as drafted.

- (5) If at least four (4) of the members of the Commission present and voting at a meeting vote to issue an advisory opinion as drafted by the staff, the advisory opinion shall be issued under the signature of the chairperson. The opinion shall be provided to the lobbyist or employer who requested it. Additionally, the Executive Director shall post a copy of the opinion on the Commission's website and a copy of the opinion shall be retained at the Commission office for public inspection and copying.
- (6) If at least four (4) of the members of the Commission present and voting at a meeting vote not to adopt an opinion as drafted, any Commission recommended changes shall be made in the opinion by the staff. If the changes voted by the Commission are minor changes, the staff shall be directed to make those specific changes, the opinion shall be issued under the signature of the chairperson without further review by the Commission. The procedures for disseminating the advisory opinion as set forth in paragraph (5) shall then be followed.
- (7) If at least four (4) of the Commission members present and voting at a meeting vote changes to be made to a draft advisory opinion which require the staff to re-write or substantially re-write the opinion, the Executive Director shall present another draft of the opinion to the Commission members at the next scheduled meeting of the Commission.

Authority: T.C.A. §§ 3-6-308(a) (4) and (9).

0580-1-1-.11 AUDITS.

- (1) On an annual basis the Commission shall audit at least two percent (2%) of registration statements, amendments to registration statements and disclosure reports of lobbyists. The statements and reports to be audited shall be selected on a random basis.
- (2) Upon a finding of probable cause to believe that a lobbyist or employer of a lobbyist has violated any provision of the Lobbyist and Employer of Lobbyist Registration and Disclosure Law, T.C.A. §§ 3-6-301 et seq., the Commission may audit the registration, amendments to registration statement and disclosure reports of such employer or lobbyist.
- (3) All audit and investigatory information obtained by or submitted to the Commission shall be confidential and shall be maintained as such in the same manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the Department of Revenue and the state under the provisions of Title 67, Chapter 1, Part 17.

Authority: T.C.A. §§ 3-6-308(a) (7), (9) and 3-6-308(c).

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2006. (08-48-06)

RULEMAKING HEARINGS

DEPARTMENT OF HEALTH - 1200 BOARD FOR LICENSING HEALTH CARE FACILITIES DIVISION OF HEALTH CARE FACILITIES

There will be a hearing before the Board for Licensing Health Care Facilities to consider the promulgation of amendment of rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 68-11-202 and 68-11-209. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Care Facilities Conference Room on the fifth floor of the Heritage Place Metrocenter located at 227 French Landing, Suite 501, Nashville, TN at 9:00 a.m. (CDST) on the 16th day of October, 2006.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Care Facilities to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Care Facilities, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-0508, (615) 741-7598.

For a copy of the entire text of this notice of rulemaking hearing visit the Department of Health's web page on the Internet at www.state.tn.us/health and click on "rulemaking hearings" or contact: Steve Goodwin, Health Facility Survey Manager, Division of Health Care Facilities, 227 French Landing, Suite 501, Heritage Place Metrocenter, Nashville, TN 37243, (615) 741-7598.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-8-29 STANDARDS FOR HOMECARE ORGANIZATIONS PROVIDING HOME MEDICAL EQUIPMENT

AMENDMENTS

Rule 1200-8-29-.01, Definitions, is amended by deleting paragraph (32) in its entirety and substituting instead the following language, so that as amended, the new paragraph (32) shall read:

- (32) Medical Record. Information that pertains to confinement or services rendered to patients may include one or more of the following:
- (a) medical histories;
 - (b) records;
 - (c) reports;
 - (d) clinical notes;
 - (e) summaries; or
 - (f) orders.

RULEMAKING HEARINGS

If the patient does not require any clinical services from the home medical equipment company, the medical record will consist of the physician order only.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, and 68-11-213.

Rule 1200-8-29-.04, Administration, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Accreditation. Any home medical equipment provider accredited by the Joint Commission on Accreditation of Health Care Organizations, Community Health Accreditation Program or other approved accrediting bodies may submit documents evidencing current accreditation and shall be presumed to comply with the requirements of the Board. Licensing of a home medical equipment provider which has been accredited by the Joint Commission on Accreditation of Health Care Organizations, Community Health Accreditation Program or other approved accrediting bodies shall become effective upon written notification from the Board's staff that the accreditation meets the standards set out in the rules and regulations promulgated pursuant to T.C.A. §§ 68-11-201, et seq.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, and 71-6-121.

Rule 1200-8-29-.04, Administration, is amended by deleting part (5)(b)10. in its entirety.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, and 71-6-121.

Rule 1200-8-29-.04, Administration, is amended by adding the following language as new subparagraphs (5)(c), (5)(d), and (5)(e), so that as amended, the new subparagraphs (5)(c), (5)(d), and (5)(e) shall read:

- (5) (c) Medical equipment delivery technicians who deliver and install respiratory equipment shall be determined to be competent by their employer prior to independently delivering and setting up the respiratory equipment in a patient's home. The home medical equipment supplier must maintain documentation to demonstrate that competency requirements are met. Standard competencies will include at a minimum the following:
1. Role responsibilities;
 2. Cylinders;
 3. Pressure regulators/Flow controllers;
 4. Home liquid oxygen systems;
 5. Oxygen concentrators;
 6. Oxygen analyzers;
 7. Humidifiers;
 8. Low flow nasal cannula; and

RULEMAKING HEARINGS

9. Small volume medication nebulizers with air compressors.

- (5) (d) Medical equipment delivery technicians shall be determined by their employer to be competent in their understanding of which acts they may and may not perform.
- (5) (e) The Board may in its discretion, after consultation with the Tennessee Association for Home Care and the Tennessee Society for Respiratory Care, encourage the use of certain competency documents developed by these two organizations to ensure compliance with the provisions of (c) and (d).

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-201, 68-11-202, 68-11-204, 68-11-206, 68-11-209, 68-11-222, and 71-6-121.

Rule 1200-8-29-.05, Admissions, Discharge and Transfers, is amended by deleting paragraph (3) in its entirety.

Authority: T.C.A. §§4-5-202, 4-5-204, 68-11-202, 68-11-209.

The notice of rulemaking set out herein was properly filed in the Department of State on the 3rd day of August, 2006. (08-04-06)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240 DIVISION OF FAMILY ASSISTANCE

There will be a hearing before the Tennessee Department of Human Services to consider the promulgation of amendments to rules pursuant to Tennessee Code Annotated §§ 4-5-201 et seq. and 71-1-105(12). The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-204 and will take place in the 2nd Floor BoardRoom, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee at 1:30 p.m. CST on October 17, 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Human Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Human Services to determine how it may reasonably provide such aid or service. Initial contact may be made with the Department of Human Services' ADA Coordinator, Anneita Dunbar, at Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

For a copy of the proposed rule contact: Phyllis Simpson, Assistant General Counsel, Department of Human Services, Citizens Plaza Building, 400 Deaderick Street, 15th Floor, Nashville, TN 37248, telephone number (615) 313-4731.

SUBSTANCE OF PROPOSED RULES OF THE TENNESSEE DEPARTMENT OF HUMAN SERVICES FAMILY ASSISTANCE DIVISION

CHAPTER 1240-1-2 FAMILY ASSISTANCE UNIT FOOD STAMP PROGRAM

AMENDMENTS

Rule 1240-1-2-.02 Household Concept – Food Stamps Only, is amended by deleting Part 5 under Subparagraph (a) Paragraph (1), and by substituting the following language, so that, as amended, Part 5 Paragraph (1), Subparagraph (a) shall read as follows:

5. An individual who is sixty (60) years of age or older (and the spouse of such individual) who lives with others and who is unable to purchase and prepare meals separately because he/she suffers from a disability considered permanent under the Social Security Act or some other non-disease-related severe permanent disability. In order for this individual and spouse to be eligible for separate household status, the combined gross income of all others with whom the individual resides (excluding the individual and his/her spouse's income) cannot exceed one hundred sixty-five percent (165%) of the poverty level as shown in the Table below:

RULEMAKING HEARINGS

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
165% of Poverty	\$1348	\$1815	\$2283	\$2750	\$3218	\$3685	\$4153	\$4620	\$5088	\$5556

For each additional member add \$468

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014; and 7 C.F.R. §§ 273.1, 273.1(b)(2), 273.9, and 273.10.

**CHAPTER 1240-1-4
FINANCIAL ELIGIBILITY REQUIREMENTS**

AMENDMENTS

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table I under Paragraph (1) Sub-paragraph (a) Part 2 in its entirety, and by inserting a new Table I, so that, as amended, Table I shall read as follows:

TABLE I

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Gross Income Standard	\$1062	\$1430	\$1799	\$2167	\$2535	\$2904	\$3272	\$3640	\$4009	\$4378

For each additional member add \$369

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table II under Paragraph (1) Sub-paragraph (b) Part 2 in its entirety, and by inserting a new Table II, so that, as amended, Table II shall read as follows:

TABLE II

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Net Income	\$817	\$1100	\$1384	\$1667	\$1950	\$2234	\$2517	\$2800	\$3084	\$3368

For each additional member add \$284

RULEMAKING HEARINGS

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table III under Paragraph (1) Subparagraph (c) Part 2 in its entirety, and by inserting a new Table III, so that, as amended, Table III shall read as follows:

TABLE III

No. of Persons in Household	1	2	3	4	5	6	7	8	9	10
Maximum Coupon Allotment	\$155	\$284	\$408	\$518	\$615	\$738	\$816	\$932	\$1049	\$1166

For each additional member add \$117

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table IV-A and Table IV-B under Paragraph (1) Subparagraph (d) in their entirety, and by inserting a new Table IV-A and Table IV-B, so that, as amended, Table IV-A and Table IV-B shall read as follows:

**TABLE IV-A
STANDARD DEDUCTION**

Household Size	1	2	3	4	5	6+
Standard Deduction	\$134	\$134	\$134	\$139	\$162	\$186

**TABLE IV-B
FOOD STAMP DEDUCTIONS**

Maximum Dependent Care for Child Less than 2 Years Of Age	\$200
Maximum Dependent Care for Child Over Age 2 or Adult	\$175
Maximum Shelter Deduction for Non-Elderly/Disabled Households	\$417
Maximum Shelter Deduction for Elderly/Disabled Households	No Maximum

RULEMAKING HEARINGS

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table V and Table V-A under Paragraph (1) Subparagraph (e) in their entirety, and by inserting a new Table V-A and Table V-B, so that, as amended, Table V-A and Table V-B shall read as follows:

**TABLE V-A
FOOD STAMP STANDARD UTILITY ALLOWANCE**

Household Size	1	2	3	4	5	6	7	8	9	10 or More
Standard Utility Allowance	\$272	\$282	\$292	\$302	\$312	\$322	\$332	\$342	\$352	\$362

**TABLE V-B
FOOD STAMP BASIC UTILITY ALLOWANCE**

Household Size	1	2	3	4	5	6	7	8	9	10 or More
Basic Utility Allowance	\$126	\$126	\$126	\$126	\$126	\$126	\$126	\$126	\$126	\$126

Rule 1240-1-4-.27 Standard of Need/Income, is amended by deleting Table VI under Paragraph (1) Subparagraph (f) in its entirety, and by inserting a new Table VI, so that, as amended, Table VI shall read as follows:

**TABLE VI
FOOD STAMP STANDARD TELEPHONE ALLOWANCE**

Household Size	1	2	3	4	5	6	7	8	9	10 or More
Basic Utility Allowance	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25	\$25

Authority: T.C.A. §§ 4-5-201 et seq.; T.C.A. § 4-5-202; T.C.A. §§ 71-1-105 and 71-5-304; 7 U.S.C.A. § 2014; and 7 C.F.R. §§ 273.9 and 273.10.

The notice of rulemaking set out herein was properly filed in the Department of State on the 10th day of August, 2006. (08-09-06)

RULEMAKING HEARINGS

TENNESSEE COMMISSION OF INDIAN AFFAIRS - 0785

There will be a public rulemaking hearing before the Tennessee Department of Environment and Conservation acting on behalf of the Tennessee Commission of Indian Affairs (TCIA), to consider the adoption and promulgation of rules pursuant to Tennessee Code Annotated Section 4-34-103 and the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-101 et seq. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204, and will take place in the first floor auditorium of the Tennessee Department of Transportation Administration Building located at 6601 Centennial Boulevard, Nashville, Tennessee at 10:00 AM CDT on Saturday October 28, 2006.

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten days prior to October 28, 2006 (or the date such party intends to review such filings), to allow time to provide such aid or services. Contact the ADA Coordinator at 401 Church Street, 12th Floor, L & C Tower, Nashville, Tennessee 37243 or call (615) 532-0200 for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

For a copy of this Notice of Rulemaking Hearing, contact: Mr. Ed Harris, 20th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1535; telephone 615-532-0131.

SUBSTANCE OF PROPOSED RULES

Rules 0785-1-.01 through .08 of Rule Chapter 0785-1 Recognition Criteria For Native American Indians expired by sunset action of the Legislature and the following new rules are replacing them to read as follows:

NEW RULES

TABLE OF CONTENTS

0785-1-.01	General
0785-1-.02	Recognition Criteria For Native American Indian Nations, Tribes or Communities
0785-1-.03	Procedures For Petitioning For Recognition
0785-1-.04	Changes In Membership Rolls
0785-1-.05	Administrative Review

0785-1-.01 GENERAL

(1) General

(a) Purpose

To establish criteria and procedures to provide for legal recognition by the state of Tennessee of Native American Indians.

RULEMAKING HEARINGS

(b) Use of Number and Gender

As used in these Rules:

1. Words in the masculine gender also include the feminine and neuter genders; and
2. Words in the singular include the plural; and
3. Words in the plural include the singular.

(c) Rule Structure

These Rules are organized, numbered, and referenced according to the following outline form:

(1) paragraph

(a) subparagraph

1. part

(i) subpart

(l) item

I. subitem

A. section

(A) subsection

(2) Definitions

When used in Rules 0785-1-.01 through .05, the following terms have the meanings given below unless otherwise specified:

“Act” means Tennessee Code Annotated Section 4-34-101 et seq., Commission of Indian Affairs.

“Applicant” means Native American Indian groups applying for Nation, Tribe, or Community recognition in Tennessee.

“Commission” means the Tennessee Commission of Indian Affairs.

“List” means the updated membership list to be submitted to the Commission by applicants and recognized Nations, Tribes, and Communities.

“Nation”, “Tribe” and “Community” for the purposes of these rules, mean an assembly of Indian people who are related to each other by blood or kinship and includes “band” and “clan”.

RULEMAKING HEARINGS

“Recognized” means being acknowledged as a Native American Indian Nation, Tribe, or Community by the state of Tennessee.

“Roll” means the official list of recognized Native American Nations, Tribes, and Communities in Tennessee.

“State” means the state of Tennessee.

Authority: T.C.A. §4-34-103.

0785-1-.02 RECOGNITION CRITERIA FOR TENNESSEE NATIVE AMERICAN INDIAN NATIONS, TRIBES, OR COMMUNITIES

- (1) Eligibility for recognition shall be determined using the following criteria:
 - (a) The applicant for recognition is indigenous to Tennessee and has been identified on a substantially continuous basis as Native American Indians throughout the history of their group; and
 - (b) A majority of the applicant inhabits a particular geographic area in Tennessee or lives in a community in Tennessee viewed as Native American Indian and distinct from all other populations in the geographic area, and a majority of its members consist of individuals who have established verifiable documented descendency from an Indian tribe which has historically inhabited the State of Tennessee; and
 - (c) The applicant has maintained tribal political influence or other authority over its members, or is able to demonstrate their existence as a continuous, distinct cultural entity capable of self-regulation, throughout their history until the present; and
 - (d) The membership of the applicant is composed of a majority of persons who are not members of any other North American Indian federal or state recognized tribe.
- (2) The following information shall be provided to the Commission for review:
 - (a) A copy of the applicant’s present governing document and/or a statement describing in full the membership criteria and the procedures through which the group governs its affairs and members; and
 - (b) A list of all known current members of the group and a copy of any available list of former members, based on the tribe’s own defined criteria; and
 - (c) A history of the applicant from 1900 to present (maximum of 2000 words) written by a professional historian or anthropologist; and
 - (d) The applicant shall also submit additional information including one (1) or more of the following:
 1. Documented traditions, customs and legends that demonstrate the group’s Native American Indian cultural heritage; and/or

RULEMAKING HEARINGS

2. Letters, statements, and documents from city, county, state, or federal authorities that document a history of tribal related business and activities that specifically address Native American Indian culture, preservation, and affairs; and/or
 3. Letters, statements, and documents from federal or state recognized tribes in and/or outside of Tennessee which attest to the Indian heritage of the group; and/or
 4. Other compelling documentation acceptable by the Commission that shows the heritage of the applicant; and
- (e) A signed and notarized statement from the officers of the applicant affirming that the information provided is true and accurate.

Authority: T.C.A. §4-34-103.

0785-1-.03 PROCEDURES FOR PETITIONING FOR RECOGNITION

- (1) An Application For Recognition form with appropriate instructions for completion and submission on the back shall be developed and approved by the Commission. It shall be available on request by writing to the Tennessee Commission of Indian Affairs at the address below. Complete applications and supporting documentation are to be sent to:

Tennessee Commission of Indian Affairs
Tennessee Department of Environment and Conservation
Office of General Counsel
401 Church Street
L & C Tower, 20th Floor
Nashville, Tennessee 37243

- (2) The Commission shall appoint a Review Committee, consisting of three (3) members of the Commission, to review applications and supporting documentation for completeness and to work with applicants to achieve completeness. A record shall be maintained of all applications and appropriate information, including, but not limited to, the date received, date determined complete, date presented to the Commission and the Commission's decision. The Review Committee shall review an application within six (6) months of the submittal date.
- (3) If the application and required documentation are complete, the Committee will present the information to the Commission for review. Applicant(s) shall be notified in writing of the date, time and location of the Commission meeting at which the application is to be considered.
- (4) The Commission will either approve or deny the application within twelve (12) months of the application being determined complete by the Review Committee. The Commission may request additional information from the applicant.
- (5) The Commission will notify each applicant in writing of the Commission's decision.
- (6) Applications pending under the former Tennessee Commission of Indian Affairs may be processed using the new criteria following the effective date of these rules. Applicants shall be contacted in writing and advised accordingly. The Commission and/or the Review Committee may request the applicant to provide updated or additional information.

RULEMAKING HEARINGS

- (7) An applicant may, at any time prior to approval, withdraw their application and supporting documentation by writing to the Commission at the address in paragraph (1) of this Rule and may request the return of all submitted documents.
- (8) An applicant applying for recognition shall specify all submitted documentation that is to be returned to the applicant following the decision of the Commission or withdrawal by the applicant of the submitted application. All documents returned to the applicant shall be at the applicant's expense.
- (9) The roll of all approved for recognition shall be maintained current by the Commission and posted on the Commission's web site.

Authority: T.C.A. §4-34-103.

0785-1-.04 CHANGES IN MEMBERSHIP LISTS AND THE ROLL

- (1) Every two (2) years from their date of recognition, Nations, Tribes, or Communities recognized pursuant to the rules herein contained shall notify the Tennessee Commission of Indian Affairs of any changes in membership criteria and subsequent additions or deletions of members at the address in rule 0785-1-.03(1).
- (2) Any recognized Nation, Tribe, or Community may terminate its recognition by submitting written notice to the Chairperson of the Commission. The Commission, at its next meeting, shall vote to remove the name from the roll.

Authority: T.C.A. §4-34-103.

0785-1-.05 ADMINISTRATIVE REVIEW

Applicants (Nations, Tribes, or Communities) who disagree with the denial of their application for recognition may use the following procedure to seek a contested case hearing before the Commission pursuant to Sections 4-5-223 through 225 of the Uniform Administrative Procedures Act.

- (1) When an affected applicant disagrees with the denial of an application for recognition based upon the contention that such action is an illegal application of rules and/or statutes or such action is based upon invalid rules or statutes, the applicant may petition the Commission for a declaratory order.
- (2) Upon receipt of such a petition, the Commission may convene a contested case hearing pursuant to the provisions of T. C. A. Section 4-5-101, et seq.
- (3) The Commission may refuse to issue a declaratory order or fail to set a petition for a contested case hearing within 60 days of receipt of the petition. In either case, the affected applicant may apply for a declaratory judgment pursuant to T. C. A. 4-5-225.

Authority: T.C.A. §4-34-103.

RULEMAKING HEARINGS

The Commission prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

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

Cookeville Environmental Field Office
1221 South Willow Avenue
Cookeville, TN 38506
(931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office
1625 Hollywood Drive
Jackson, TN 38305
(731) 512-1300/ 1-888-891-8332

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

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

Knoxville Environmental Field Office
3711 Middlebrook Pike
Knoxville, TN 37921-5602
(865)594-6035/ 1-888-891-8332

Nashville Environmental Field Office
711 R. S. Gass Blvd.
Nashville, TN 37243-1550
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office
2305 Silverdale Road
Johnson City, TN 37601-2162
(423) 854-5400/1-888-891-8332

Additional review copies are available at the following library locations:

McIver's Grant Public Library
204 North Mill Street
Dyersburg, TN 38024-4631
(731) 285-5032

W. G. Rhea Public Library
400 West Washington Street
Paris, TN 38242-0456
(731) 642-1702

Hardin County Library
1013 Main Street
Savannah, TN 38372-1903
(731) 925-4314

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

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

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

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

Kingsport Public Library & Archives
400 Broad Street
Kingsport, TN 37660-4292
(423) 229-9489

RULEMAKING HEARINGS

The "DRAFT" rules may also be accessed for review using:

www.tdec.net/tcia

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

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to the Office of General Counsel; Tennessee Department of Environment and Conservation; Attention: Mr. Ed Harris; 20th Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0131 or FAX 615-532-0145. However, such written comments must be received by 4:30 PM CST, November 7, 2006 in order to assure consideration. For further information, contact Mr. Ed Harris at the above address or telephone number.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of August, 2006. (08-29-06)

RULEMAKING HEARINGS

TENNESSEE MASSAGE LICENSURE BOARD - 0870

There will be a hearing before the Tennessee Massage Licensure Board to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-18-105, 63-18-108, 63-18-111, 63-18-112, and Public Chapter 737 of the Public Acts of 2006. 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 Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 25th day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 0870-1-.04 Licensure Process, is amended by deleting subparagraph (1) (m) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (m) shall read:

(1) (m) Reciprocity Licensure

1. Applicants who are licensed or have been licensed in another state as a massage therapist must submit along with their applications copies of the statutes and rules governing the licensure/certification qualifications and process from all states in which they currently or previously have held licensure/certification. The Board will determine in its sole discretion whether the licensure/certification standards of any other state are as stringent as those of Tennessee for purposes of granting licensure under this rule. Unless an applicant makes use of the provisions in part 2. of this subparagraph, no applicant shall be approved for licensure without successfully completing the five (5) classroom hours of instruction regarding Tennessee massage statutes and regulations as required in subpart (1) (f) 1. (v).
2. Applicants can avoid the requirements of part (1) (f) 1. by having N.C.B.T.M.B. submit directly to the Board Administrative Office proof of their certification for the five (5) year period immediately preceding application for licensure and by submitting documentation satisfactory to the Board that they have engaged in the practice of massage therapy in another state for the five (5) year period immediately preceding application for licensure, and who either:

RULEMAKING HEARINGS

- (i) have successfully completed the examination requirements of rule 0870-1-.08 and have met the education requirements set forth in part (1) (f) 1. but are unable, because the educational institution either was not state-approved or is no longer in existence, to have a transcript be submitted directly from the institution(s) to the Board Administrative Office; or
- (ii) have graduated from a qualified massage school or course prior to October 1, 1995 and have caused a transcript documenting the graduation to be submitted directly from the institution(s) to the Board Administrative Office.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-105, 63-18-111, 63-18-112, and Public Chapter 737 of the Public Acts of 2006.

Rule 0870-1-.07 Application Review, Approval, and Denial, is amended by deleting subparagraph (6) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6) (b) shall read:

- (6) (b) The issuance of the license applied for may be withheld, restricted or conditioned for violation of the provisions of T.C.A. § 63-18-108 and any rules promulgated pursuant thereto or failure to fully comply with all application requirements.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-108, 63-18-111, and Public Chapter 737 of the Public Acts of 2006.

Rule 0870-1-.08 Examination, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, so that as amended, the new paragraph (1) shall read:

- (1) With the exception of applicants qualifying pursuant to Rule 0870-1-.04 (1) (m) 2. (ii) or Rule 0870-1-.05, all persons intending to apply for licensure must successfully complete one (1) of the competency examinations adopted by the Board pursuant to this Rule as a prerequisite to licensure. Such examinations must be completed prior to application for licensure. Evidence of successful completion must be submitted by the examining agency directly to the Board Administrative Office as part of the application process contained in Rule 0870-1-.04.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-18-105, 63-18-111, 63-18-112, and Public Chapter 737 of the Public Acts of 2006.

Rule 0870-1-.12 Continuing Education, is amended by deleting paragraph (1), subparagraphs (2) (b) and (4) (a), and part (4) (b) 1. in their entirety and substituting instead the following language, and is further amended by inserting the following language as new part (4) (c) 1. and renumbering the existing parts accordingly, so that as amended, the new paragraph (1), the new subparagraphs (2) (b) and (4) (a), and the new parts (4) (b) 1. and (4) (c) 1. shall read.

- (1) Massage Therapy Continuing Education is considered to be those preplanned/formalized activities with written learning objectives that are directed at developing and enhancing an individual's massage therapy knowledge base, or relevant skills. Except for courses offered to meet the requirements of subparagraph (2) (b), these activities may be presented in any

RULEMAKING HEARINGS

format authorized by subparagraph (4) (d) and part (4) (b) 5. oriented toward enhancement of massage therapy and for the purpose of accomplishing specific written objectives.

- (2) (b) Two (2) hours of the twenty-five (25) hour requirement shall pertain to federal and Tennessee statutes and rules concerning massage therapists and establishments. Providers must comply with all the following before the course can be presented:
 1. The provider must submit the course materials for review and approval pursuant to subparagraph (4) (c) of this rule; and
 2. The course, including multi-media courses, must be presented in a lecture format with successful completion of a written post experience examination to evaluate material retention; and
 3. The provider must submit documentation sufficient to show that the information to be disseminated in the course is accurate and current and is in compliance with paragraph (1) and subparagraph (4) (c) of this rule; and
 4. The provider must submit a statement signed by an attorney licensed in Tennessee stating that he or she has reviewed and approved the course materials and information to be disseminated as being accurate and current.

- (4) (a) Courses to be offered for credit toward the required continuing education hours must, unless otherwise provided, receive prior approval from the Board. Approval once granted, regardless of whether approval is pursuant to subparagraphs (b) or (c) of this paragraph, is effective only for the continuing education cycle as identified in subparagraph (2) (a) in which they are approved. All courses that have been approved under this rule prior to the effective date of this rule will expire at the end of the continuing education cycle in which the effective date of this rule falls. After that, all courses/hours provided for credit toward meeting the requirements of this rule must be approved either pursuant to part (b) 1. or subparagraph (c) of this paragraph in every continuing education cycle in which they are offered.

- (4) (b) 1. Associations, corporations, or organizations authorized as a provider by the National Certification Board for Therapeutic Massage and Bodywork or the National Commission for Certifying Agencies. Provided however, any provider approved by any organization identified in this part who intends to include in their course the hours necessary to meet the requirements of subparagraph (2) (b) of this rule must also comply with all of the following before those hours can be presented:
 - (i) The provider must submit the course materials for those hours for review and approval pursuant to subparagraph (4) (c) of this rule; and
 - (ii) Those hours, including multi-media courses, must be presented in a lecture format with successful completion of a written post experience examination to evaluate material retention; and
 - (iii) The provider must submit documentation sufficient to show that the information to be disseminated in those hours is accurate and current and is in compliance with paragraphs (1) and subparagraph (4) (c) of this rule; and

RULEMAKING HEARINGS

- (iv) The provider must submit a statement signed by an attorney licensed in Tennessee stating that he or she has reviewed and approved the materials and information to be disseminated as being accurate and current.

- (4) (c) 1. The written learning objectives of the course.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, and 63-18-111.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of August, 2006. (08-20-06)

RULEMAKING HEARINGS

**BOARD OF OCCUPATIONAL AND PHYSICAL THERAPY EXAMINERS - 1150
COMMITTEE OF PHYSICAL THERAPY**

There will be a hearing before the Tennessee Board of Occupational and Physical Examiners' Committee of Physical Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, and 63-13-104. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room on the First Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 17th day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1150-1-.04, Qualifications for Licensure, is amended by deleting part (3) (d) 1. in its entirety and substituting instead the following language, so that as amended, the new part (3) (d) 1. shall read:

- (3) (d) 1. The supervised clinical practice period shall be four hundred and eighty (480) hours and shall be accomplished at a rate of no more than forty (40) hours or no less than ten (10) hours per week.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-304, and 63-13-307.

Rule 1150-1-.06, Fees, is amended by deleting subparagraphs (4) (a), (4) (d), and (4) (h) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (a), (4) (d), and (4) (h) shall read:

(4) (a)	Application Fee	\$ 50.00	\$ 40.00
(4) (d)	License Fee	\$ 25.00	\$ 25.00
(4) (h)	Renewal Fee (biennial)	\$ 40.00	\$ 40.00

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-306, 63-13-307, and 63-13-308.

RULEMAKING HEARINGS

Rule 1150-1-.10, Provisional License, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

(3) Duration of License

- (a) For applicants who are internationally educated, provisional licenses are valid for no less than twelve (12) weeks and no more than forty-eight (48) weeks. The provisional license may not be renewed.
- (b) For physical therapists or physical therapist assistants whose licenses have been retired or expired for greater than three (3) years, provisional licenses are valid for a period of time as determined by the Board. The provisional license may not be renewed.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-307, and 63-13-309.

Rule 1150-1-.10, Provisional License, is amended by deleting paragraph (1) in its entirety and substituting instead the following language, and is further amended by inserting the following language as paragraph (2) and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs (1) and (2) shall read:

- (1) A provisional license shall be issued for an internationally educated applicant who has complied with all the licensure qualifications of Rule 1150-1-.04 except the supervised clinical practice period required by subparagraph 1150-4-.04 (3) (d).
- (2) A provisional license may be issued for a physical therapist or physical therapist assistant whose license has been retired or expired for greater than three (3) years and whose license is presently unencumbered with respect to disciplinary action.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-307, 63-13-308, and 63-13-309.

Rule 1150-1-.12, Continuing Competence, is amended by deleting part (9) (b) 2. in its entirety and substituting instead the following language, so that as amended, the new part (9) (b) 2. shall read:

- (9) (b) 2. The Committee may, at its discretion, require additional education, supervised clinical practice, successful passage of examinations, or issue a provisional license.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-304, 63-13-307, 63-13-308, and 63-13-309.

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of August, 2006. (08-14-06)

RULEMAKING HEARINGS

BOARD OF OCCUPATIONAL AND PHYSICAL THERAPY EXAMINERS - 1150 COMMITTEE OF OCCUPATIONAL THERAPY

There will be a hearing before the Tennessee Board of Occupational and Physical Examiners' Committee of Occupational Therapy to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-13-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 26th day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1150-2-.01, Definitions, is amended by deleting paragraphs (22) and (24) in their entirety and renumbering the remaining paragraphs accordingly.

Authority: T.C.A. § 4-5-202, 4-5-204, and 63-13-108.

Rule 1150-2-.01, Definitions, is amended by inserting the following definition as new, appropriately alphabetized and numbered paragraphs:

- () Occupations - Everyday life activities, named, organized, and given value and meaning by individuals and their culture. The term includes everything that people do to occupy their time, including caring for their needs, enjoying life, and contributing to the social and economic fabric of their communities.

- () Unlicensed person – A person who performs specific supportive tasks related to occupational therapy practice under the direct supervision of an occupational therapist or an occupational therapy assistant and whose activities do not require professional or advanced training in the basic anatomical, biological, psychological and social sciences involved in the provision of occupational therapy services. Such persons are often referred to as aides, technicians,

RULEMAKING HEARINGS

transporters or support staff.

Authority: *T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, and Public Chapter 765 of the Public Acts of 2006.*

Rule 1150-2-.02, Scope of Practice, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, and is further amended by inserting the following language as new paragraphs (3), (4) (5) and (6), and renumbering the present paragraph (3) as paragraph (7), so that as amended, the new paragraphs (2), (3), (4), (5) and (6) shall read:

- (2) The Committee adopts for licensed occupational therapists and occupational therapy assistants, as if fully set out herein, and as it may from time to time be amended, the current "Occupational Therapy Code of Ethics" issued by the American Occupational Therapy Association and the code of ethics approved by the National Board for Certification in Occupational Therapy, except to the extent that it conflicts with the laws of the state of Tennessee or the rules of the Committee. If the code of ethics conflicts with state law or rules, the state law or rules govern the matter. Information to acquire copies may be obtained by contacting the following:
 - (a) The American Occupational Therapy Association, Inc.
4720 Montgomery Lane
PO Box 31220
Bethesda, MD 20824-1220
Telephone: (301) 652-2682
Fax: (301) 652-7711
TDD: (800) 377-8555
Internet: www.aota.org

The National Board for Certification in Occupational Therapy, Inc.
800 South Frederick Ave.
Suite 200
Gaithersburg, MD 20877-4150
Telephone (301) 990-7979
Fax (301) 869-8492
Internet : www.nbcot.org
 - (b) Tennessee Board of Occupational and Physical Therapy Examiners
Committee of Occupational Therapy
227 French Landing, Suite 300
Heritage Place, MetroCenter
Nashville, TN 37243
Telephone: (615) 532-3202 ext. 25135
Telephone: (800) 778-4123 ext. 25135
Fax: (615) 532-5164
Internet: www.tennessee.gov/health
- (3) "Occupational therapy practice" means the therapeutic use of everyday life activities (occupations) for the purpose of enabling individuals or groups to participate in roles and situations in home, school, workplace, community and other settings. Occupational therapy addresses the physical, cognitive, psychosocial and sensory aspects of performance in a variety of contexts to support engagement in occupations that affect health, well-being and quality of

RULEMAKING HEARINGS

life. Occupational therapy practice includes, but is not limited to:

- (a) The screening, evaluation, assessment, planning, implementation and discharge planning of an occupational therapy program or services in consultation with the client, family members, caregivers and other appropriate persons;
- (b) Selection and administration of standardized and non-standardized tests and measurements to evaluate factors affecting activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:
 - 1. Body functions and body structures;
 - 2. Habits, routines, roles and behavior patterns;
 - 3. Cultural, physical, environmental, social and spiritual context and activity demands that affect performance; and
 - 4. Performance skills, including motor, process and communication/interaction skills;
- (c) Methods or strategies selected to direct the process of interventions, such as:
 - 1. Modification or adaptation of an activity or the environment to enhance performance;
 - 2. Establishment, remediation or restoration of a skill or ability that has not yet developed or is impaired;
 - 3. Maintenance and enhancement of capabilities without which performance in occupations would decline;
 - 4. Health promotion and wellness to enable or enhance performance and safety of occupations; and
 - 5. Prevention of barriers to performance, including disability prevention;
- (d) Interventions and procedures to promote or enhance safety and performance in activities of daily living, instrumental activities of daily living, education, work, play, leisure and social participation, including:
 - 1. Therapeutic use of occupations, exercises and activities;
 - 2. Training in self-care, self-management, home management and community/work reintegration;
 - 3. Development, remediation or compensation of physical, cognitive, neuromuscular and sensory functions and behavioral skills;
 - 4. Therapeutic use of self, including an individual's personality, insights, perceptions and judgments as part of the therapeutic process;
 - 5. Education and training of individuals, family members, caregivers and others;

RULEMAKING HEARINGS

6. Care coordination, case management, discharge planning and transition services;
 7. Consulting services to groups, programs, organizations or communities;
 8. Assessment, recommendations and training in techniques and equipment to enhance functional mobility, including wheelchair management;
 9. Driver rehabilitation and community mobility; and
 10. Management of feeding and eating skills to enable feeding and eating performance;
- (e) Management of occupational therapy services, including the planning, organizing, staffing, coordinating, directing or controlling of individuals and organizations;
 - (f) Providing instruction in occupational therapy to students in an accredited occupational therapy or occupational therapy assistant educational program by persons who are trained as occupational therapists or occupational therapy assistants; and
 - (g) Administration, interpretation and application of research to occupational therapy services.
- (4) Occupational therapy services are provided for the purpose of promoting health and wellness to those clients who have, or are at risk of developing, illness, injury, disease, disorder, impairment, disability, activity limitation or participation restriction and may include:
- (a) Training in the use of prosthetic devices;
 - (b) Assessment, design, development, fabrication, adaptation, application, fitting and training in the use of assistive technology and adaptive and selective orthotic devices;
 - (c) Application of physical agent modalities with proper training and certification;
 - (d) Assessment and application of ergonomic principles;
 - (e) Adaptation or modification of environments (home, work, school or community) and use of a range of therapeutic procedures (such as wound care management, techniques to enhance sensory, perceptual and cognitive processing, and manual therapy techniques) to enhance performance skills, occupational performance or the promotion of health and wellness.
- (5) Occupational therapy practice may occur in a variety of settings, including, but not limited to:
- (a) Institutional inpatient settings, such as acute rehabilitation facilities, psychiatric hospitals, community and specialty hospitals, nursing facilities and prisons;
 - (b) Outpatient settings, such as clinics, medical offices and therapist offices;
 - (c) Home and community settings, such as homes, group homes, assisted living facilities, schools, early intervention centers, daycare centers, industrial and business facilities,

RULEMAKING HEARINGS

hospices, sheltered workshops, wellness and fitness centers and community mental health facilities;

- (d) Research facilities; and
 - (e) Educational institutions.
- (6) Occupational therapy practice includes specialized services provided by occupational therapists or occupational therapy assistants who are certified or trained in areas of specialization, which include, but are not limited to, hand therapy, neurodevelopmental treatment, sensory integration, pediatrics, geriatrics and neurorehabilitation, through programs approved by AOTA or other nationally recognized organizations;

Authority: *T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-209, and Public Chapter 765 of the Public Acts of 2006.*

Rule 1150-2-.04, Qualifications for Licensure, is amended by deleting paragraphs (1) and (2) in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (3) (c) but not its parts and substituting instead the following language, so that as amended, the new paragraphs (1) and (2), and the new subparagraph (3) (c) but not its parts shall read:

- (1) To qualify for licensure as an occupational therapist, an applicant must:
 - (a) Be of good moral character;
 - (b) Have successfully completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or its predecessor organization;
 - (c) Have successfully completed the supervised fieldwork experience required by ACOTE; and
 - (d) Pass the National Board for Certification in Occupational Therapy Examination administered by the National Board for Certification in Occupational Therapy; or be eligible for licensure as provided in T.C.A. § 63-13-213.
- (2) To be eligible for licensure as an occupational therapy assistant, an applicant must:
 - (a) Be of good moral character;
 - (b) Have successfully completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education (ACOTE) or its predecessor organization;
 - (c) Have successfully completed the supervised fieldwork experience required by ACOTE; and
 - (d) Pass the National Board for Certification in Occupational Therapy Examination administered by the National Board for Certification in Occupational Therapy; or be eligible for licensure as provided in T.C.A. § 63-13-213.
- (3) (c) Training. The continuous supervision of students who are training to be certified in the use of physical agent modalities is required at all times. Such supervision shall only

RULEMAKING HEARINGS

be provided by an occupational therapist who is currently licensed in Tennessee and is currently certified in Tennessee in the use of physical agent modalities.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-202, 63-13-203, 63-13-206, 63-13-213, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.05, Procedures for Licensure, is amended by deleting subparagraph (1) (i) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (i) shall read:

- (i) Physical agent modality certification. If an applicant is seeking certification in the use of physical agent modalities, as provided in paragraph (3) of rule 1150-2-.04, the applicant shall cause to have proof of successful training completion be submitted directly from the training provider to the Committee's administrative office.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-202, and 63-13-213.

Rule 1150-2-.06, Fees, is amended by deleting subparagraph (1) (d) in its entirety and substituting instead the following language, and is further amended by adding the following language as new subparagraphs (1) (j) and (4) (j), so that as amended, the new subparagraphs (1) (d), (1) (j), and (4) (j) shall read:

- (1) (d) Limited Permit Fee - A nonrefundable fee to be paid when an individual requests a limited permit.
- (1) (j) Inactive License Fee – A nonrefundable fee to be paid each time a licensee requests an Inactive License, and every two (2) years thereafter until reactivation is requested.
- (4) (j) Inactive License (biennial) \$ 25.00 \$ 25.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-205, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.10, Supervision, is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph (4) shall read:

- (4) Supervision of an unlicensed person shall be as follows:
 - (a) There shall be close supervision with daily, direct contact at site of treatment, which demands the physical presence of a licensed physician, Occupational Therapist or Occupational Therapy Assistant, whenever the unlicensed person assists in the practice of Occupational Therapy.
 - (b) There shall be personal instruction, observation and evaluation by the licensed physician, Occupational Therapist or Occupational Therapy Assistant.
 - (c) There shall be specific delineation of tasks and responsibilities by the licensed physician, Occupational Therapist or Occupational Therapy Assistant who is responsible for reviewing and interpreting the results of care. The licensed physician, Occupational Therapist or Occupational Therapy Assistant must ensure that the unlicensed person

RULEMAKING HEARINGS

does not perform duties for which he is not trained.

1. A licensed physician, Occupational Therapist or Occupational Therapy Assistant may delegate to unlicensed persons specific routine tasks associated with nontreatment aspects of occupational therapy services which are neither evaluative, assessive, task selective, or recommending in nature, nor which require decision-making or making occupational therapy entries in official patent records, if the following conditions are met:
 - (i) The licensed physician, Occupational Therapist or Occupational Therapy Assistant accepts professional responsibility for the performance of that duty by the personnel to whom it is delegated. In the case of duties delegated by a OTA, the licensed physician, Occupational Therapist or Occupational Therapy Assistant who supervises the technician will be responsible; and
 - (ii) The unlicensed personnel do not perform any duties which require licensure under this act; and
 - (iii) The licensed physician, Occupational Therapist or Occupational Therapy Assistant ensures that the unlicensed personnel have been appropriately trained for the performance of the tasks.
2. Tasks which may be delegated may include:
 - (i) Transporting of patients;
 - (ii) Preparing or setting up a work area or equipment;
 - (iii) Routine department maintenance or housekeeping activities;
 - (iv) Taking care of patients' personal needs during treatments; and
 - (v) Clerical, secretarial or administrative duties.
- (d) Appropriate records must be maintained to document compliance. The licensed physician, Occupational Therapist or Occupational Therapy Assistant must countersign all unlicensed person's documentation.
- (e) The intensity of the supervision is determined by the nature of the task to be performed, the needs of the consumer, and the capability of the unlicensed person.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-13-103, 63-13-108, 63-13-207, and Public Chapter 765 of the Public Acts of 2006.

Rule 1150-2-.11, Retirement and Reactivation of License, is amended by inserting the following lan-

RULEMAKING HEARINGS

guage as new paragraph (4) and renumbering the current paragraph (4) as paragraph (5):

- (4) Licensees may place their licenses on inactive status by filing the appropriate form with the Committee and by paying the biennial Inactive License fee as provided in Rule 1150-2-.06. If the licensee thereafter reengages in active practice in Tennessee, such licensee shall apply for relicensure (reactivation) and shall meet the continued competence education requirements as provided in Rule 1150-2-.12.

Authority: *T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.*

Rule 1150-2-.12, Continued Competence, is amended by deleting paragraph (13) but not its subparagraphs, and substituting instead the following language, and is further amended by deleting subparagraph (13) (a) in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (13) (b) but not its parts, and substituting instead the following language, and is further amended by deleting part (13) (b) 1. in its entirety and substituting instead the following language, so that as amended, the new paragraph (13) but not its subparagraphs, the new subparagraph (13) (a), the new subparagraph (13) (b) but not its parts, and the new part (13) (b) 1. shall read:

(13) Reinstatement/Reactivation of an Expired, Retired or Inactive License.

(13) (a) Expired, retired, or inactive for three (3) years or less - An individual whose license has expired, or has been retired or inactive for three (3) years or less shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement/reactivation year.

(13) (b) Expired, retired or inactive more than three (3) years

(13) (b) 1. An individual whose license has expired, or has been retired or inactive for more than three (3) years shall submit the appropriate application and documentation of continued competence, as provided in paragraph (12), for the two (2) year period that precedes the reinstatement/reactivation year; and

Authority: *T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-204, 63-13-215, and Public Chapter 765 of the Public Acts of 2006.*

Rule 1150-2-.14, Limited Permit, is amended by adding the following introductory language, and is further amended by deleting paragraphs (1), (2), (3) and (4) in their entirety and substituting instead the following language, so that as amended, the new introductory language and the new paragraphs (1), (2), (3), and (4) shall read:

1150-2-.14 LIMITED PERMIT. A limited permit may be issued by the Committee to applicants for licensure as an occupational therapist or occupational therapy assistant who have paid the Limited Permit Fee required by Rule 1150-2-.06, and have successfully completed the educational and field experience requirements of paragraphs (1) or (2) of Rule 1150-2-.04, and are scheduled to take the examination required by Rule 1150-2-.08. Applicants for licensure who have been issued a limited permit may practice occupational therapy only under supervision of a licensed occupational therapist, as provided in Rule 1150-2-.10.

- (1) An applicant who has received a limited permit must take the examination within ninety (90) days of the date the applicant received the limited permit. If the applicant does not take the

RULEMAKING HEARINGS

examination within the ninety (90) day period, the limited permit expires at the end of the ninety (90) day period.

- (2) If an applicant passes the examination, the applicant's limited permit remains effective until the Committee grants or denies a license to the applicant.
- (3) If an applicant fails the examination, the applicant's limited permit expires upon the Committee's receipt of notice that the applicant failed the examination.
- (4) An applicant may obtain only one (1) limited permit. The limited permit is non-renewable.

Authority: *T.C.A. § 4-5-202, 4-5-204, 63-13-108, 63-13-202, 63-13-203, 63-13-205, 63-13-206, and Public Chapter 765 of the Public Acts of 2006.*

Rule 1150-2-.15, Disciplinary Actions, Civil Penalties, and Screening Panels, is amended by deleting paragraph (6) in its entirety and substituting instead the following language, so that as amended, the new paragraph (6) shall read:

- (6) Reconsiderations and Stays - The Committee authorizes the member who chaired the Committee for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-4-1-.18 regarding petitions for reconsiderations and stays in that case.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-13-105, 63-13-108, and 63-13-209.*

Rule 1150-2-.19, Committee Meetings, Officers, Consultants, Records, and Declaratory Orders, is amended by deleting subparagraph (6) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6) (b) shall read:

- (6) (b) Recommend whether and under what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently ratified by the full Committee before it will become effective.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-13-105, 63-13-108, and 63-13-209.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of August, 2006.

RULEMAKING HEARINGS

BOARD OF OSTEOPATHIC EXAMINATION - 1050

There will be a hearing before the Tennessee Board of Osteopathic Examination to consider the promulgation of an amendment to a rule pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-107. 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 Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 24th day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULE

AMENDMENT

Rule 1050-2-.12 Continuing Education Requirements, is amended by inserting the following language as new subparagraph (1) (b), and renumbering the current subparagraphs (1) (b), (1) (c) and (1) (d) as subparagraphs (1) (c), (1) (d) and (1) (e):

- (1) (b) At least one (1) of the forty (40) required hours shall be a course designed specifically to address prescribing practices. The course should include, but not be limited to, instruction on controlled substance prescribing practices.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-9-101, and 63-9-107.

The notice of rulemaking set out herein was properly filed in the Department of State on the 18th day of August, 2006. (08-24-06)

RULEMAKING HEARINGS

TENNESSEE REGULATORY AUTHORITY - 1220

There will be a hearing before the Tennessee Regulatory Authority to consider the promulgation of a rule pursuant to Tenn. Code Ann. §§ 4-5-202 and 65-2-102. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. § 4-5-204 and will take place in the Hearing Room of the Tennessee Regulatory Authority located at 460 James Robertson Parkway, Nashville, TN 37243 at 2:00 p.m. (central) on the 16 day of October 2006.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Regulatory Authority to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review the filings), to allow time for the Tennessee Regulatory Authority to determine how it may reasonably provide such aid or service. Initial contact may be made with the Tennessee Regulatory Authority's ADA Coordinator at 460 James Robertson Parkway, Nashville, TN 37243-0505 and 615/741-2904, extension 138.

For a copy of this notice, contact: Sharla Dillon, Docket Manager, Tennessee Regulatory Authority, 460 James Robertson Parkway, Nashville, TN 37343, (615) 741-2904, extension 136.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1220-4-14 TELECOMMUNICATIONS RULE GOVERNING THE OPERATIONS AND FUNDING MECHANISM FOR THE TENNESSEE RELAY SERVICE

- 1220-4-14-.01 Definitions
- 1220-4-14-.02 Scope and Purpose of Rule
- 1220-4-14-.03 TRS Fund Administrator
- 1220-4-14-.04 TRS Operations Administrator
- 1220-4-14-.05 TRS Funding Mechanism
- 1220-4-14-.06 Enforcement Provisions

1220-4-14-.01 DEFINITIONS

- (1) "Assigned telephone number" means the pool of total telephone numbers assigned to a communications service provider by the North American Numbering Administrator, including working and non-working telephone numbers.
- (2) "Authority" means the Tennessee Regulatory Authority.
- (3) "Basic relay" means the traditional form of relay consisting of one TTY user and one voice user.
- (4) "CapTel" means a service that utilizes captioned telephone technology to assist persons with a communication disability in their use of the telephone network.
- (5) "Communication disability" means a condition of hearing impairment or speech impairment as defined in Title IV, Section 401, Americans with Disabilities Act of 1990.

RULEMAKING HEARINGS

- (6) “Intrastate communications service” means the offering for a fee of intrastate voice communications or the intrastate service that allows the end users to engage in real-time communications via a physical transmission facility directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of facilities or technology used.
- (7) “Intrastate communications service provider” means any entity that uses telephone numbers or an internet protocol (IP) address – or the functional equivalent – to offer a service that includes real-time voice communications that originate and terminate within the state. This definition shall include wireless and IP based providers that process calls originating and terminating within the state.
- (8) “Local exchange company (LEC)” means a corporation that provides telephone access lines to residential and business customers with the associated transmission of two-way interactive switched voice communication within a geographic area where basic local exchange rates apply rather than message telecommunications service rates.
- (9) “North American Numbering Administrator” means the entity appointed by the Federal Communications Commission to oversee the administration, assignment and conservation of telephone numbers for North America.
- (10) “State” means the State of Tennessee.
- (11) “Tennessee Relay Service (TRS)” means the service through which a person having a communication disability, through the use of specialized telecommunications equipment, sends and receives messages by way of voice communication to and from a person without such disability whose telephone is not equipped with specialized telecommunications equipment. TRS includes services that enable two-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not use such a device. TRS shall include basic relay and CapTel services.
- (12) “Working telephone number” means a telephone number with an existing NPA-NXX code that is assigned to a working subscriber access line or its equivalent through which real-time voice communications are originated and terminated.

Authority: T.C.A. § 65-21-115

1220-4-14-.02 SCOPE AND PURPOSE OF CHAPTER

- (1) This Chapter provides for the operation and funding of the Tennessee Relay Service. As stated by the Tennessee General Assembly in Tenn. Code Ann. § 65-5-107 *et seq.*, it is the public policy of the State that all citizens have access to affordable residential basic local telecommunications service, referred to as “universal service.” Successfully accomplishing universal service requires the establishment of a telecommunications relay service that will provide citizens with a communications disability the ability to access and utilize the public telecommunications network. The Authority has determined in Docket No. 97-00888 Phase I that basic relay service shall be funded by a state universal service support. The funding mechanism for the Tennessee Relay Service shall be competitively neutral-based in accordance with Authority rules and federal statutes.

Authority: T.C.A. § 65-21-115

RULEMAKING HEARINGS

1220-4-14-.03 TRS FUND ADMINISTRATOR

- (1) The Authority may designate a TRS Fund Administrator, who shall administer the collection and disbursement of funds for the TRS in accordance with Generally Accepted Accounting Principles and state requirements.
- (2) Funds collected to support the TRS shall be deposited in the TRS Fund of the Authority. Any excess funds collected over the actual expense shall be deposited in TRS Reserve Fund.
- (3) Funds collected to support the TRS may be used to cover administrative expenses incurred in the collection and disbursement of TRS funds.
- (4) The TRS Fund Administrator shall issue an annual financial report of the TRS fund in February of each year reflecting the amount of monies collected and dispersed as well as the portion of the fund used to support the administration of the program.

Authority: T.C.A. § 65-21-115

1220-4-14-.04 TRS OPERATION ADMINISTRATOR

- (1) The Authority shall appoint and contract with a qualified person or persons to operate the Tennessee Relay Service (TRS Operation Administrator) in accordance with state and federal law.
- (2) The TRS Operation Administrator shall not be an employee or officer of the state.
- (3) The appointment and contract for the TRS Operation Administrator shall be for fixed terms with the provision that the Authority may renew the terms of appointment and contract.
- (4) The TRS contract shall include a consumer education and outreach component to inform and educate the public about the availability of relay services.
- (5) The TRS Operation Administrator shall establish a TRS advisory council made up of users of relay services representing all regions of the state who will provide the administrator with feedback on service quality and feature offerings. This council shall consist of no fewer than five (5) individual who reside in East, Middle and West Tennessee with no more than two (2) residing in any one grand division of the State.
- (6) The TRS Operation Administrator shall provide reports timely to the Authority as requested or as required in the TRS contract.
- (7) The Authority may audit, at its own expense, the records of the TRS Operation Administrator.

Authority: T.C.A. § 65-21-115

1220-4-14-.05 TRS FUNDING MECHANISM

- (1) All intrastate communications service providers shall contribute toward the cost of supporting the TRS through an annual assessment, determined by the TRS Fund Administrator.

RULEMAKING HEARINGS

- (2) The amount assessed to each intrastate communications service provider for the purpose of funding the TRS shall include an allocation of projected total TRS costs for the upcoming year and a true-up of actual costs for the preceding year to the amount of funding collected for the same time period. This assessment shall be based upon the prorated share of total working telephone numbers of all intrastate communications service providers as reported on the TRS Assessment Form provided by and filed with the Authority.
 - (a) No later than August 1 of each year, all intrastate communications service providers shall submit to the Authority data showing the total number of assigned and working telephone numbers as of June 30 of the same year utilized to provide real-time voice communications originating from Tennessee, along with a sworn affidavit from a company executive verifying the accuracy of the data.
 - (b) No later than September 15 of each year, the TRS Operation Administrator shall submit to the Authority a statement of actual year-to-date costs through August 31 of that year and a projection of the cost to operate the TRS for the following calendar year.
 - (c) No later than November 1 of each year, the Authority shall calculate the authorized charge and render assessments to all intrastate communications service providers.
 - (d) Intrastate communications service providers shall submit payment to the Authority for TRS support no later than December 15 of each year.
 - (e) Intrastate communications service providers that have less than 1,000 working telephone numbers within Tennessee shall not be assessed a fee to support the TRS but are still required to file with the Authority the annual data specified in 1220-4-14-.05(2) (a).
 - (f) Intrastate communications service providers shall be assessed a late fee of five percent (5%) per month of the TRS assessed amount for failing to comply with Rule 1220-4-14-.05(2) (d).
 - (g) If, at any time, it becomes apparent that actual TRS costs will exceed the amount collected, thereby resulting in a shortage of available funds, the Authority may impose an emergency assessment to cover the expected shortfall.
- (3) Intrastate communications carriers shall be authorized to recover those amounts collected for funding the TRS. The charge may be itemized on each telephone account, in which case the authorized charge shall be calculated by the Authority and shall be listed by the carrier as the "Tennessee Relay Service Fund" on the end user's bill. Each intrastate communications service provider shall maintain a record of the monthly itemized charge imposed on and collected from each customer for a period of three (3) years.

Authority: T.C.A. § 65-21-115

1220-4-14-.06 ENFORCEMENT PROVISIONS

- (1) The Authority may, at its own expense, audit the records of intrastate communications service providers or request such information as to ensure that such charges to customers are collected in accordance with this chapter.

RULEMAKING HEARINGS

- (2) The Authority may order the investigation of an intrastate communications service provider to determine compliance with this chapter. If such investigation reveals a possible violation of state law or this Chapter, the Authority may issue a show cause order with respect to such acts pursuant to Tenn. Code Ann. Section 65-2-106.

Authority: T.C.A. § 65-21-115

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2006. (08-41-06)

RULEMAKING HEARINGS

BOARD OF SOCIAL WORKER CERTIFICATION AND LICENSURE - 1365

There will be a hearing before the Tennessee Board of Social Worker Certification and Licensure to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-23-108. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CDT) on the 23rd day of October, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1365-1-.04, Qualifications for Certification and Licensure, is amended by inserting the following language as new paragraph (1), and renumbering the current paragraphs (1), (2) and (3) as paragraphs (2), (3) and (4):

- (1) Temporarily Certified Master Social Worker – Must be a graduate with a master's or doctorate degree in social work, as provided in T.C.A. §§ 63-23-102, granted after April, 2005 by a university, college, or school of social work which has applied for, but has not yet received, accreditation by the Council on Social Work Education.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, and 63-23-108.

Rule 1365-1-.05, Procedures for Certification and Licensure, is amended by inserting the following language as new paragraph (1) and renumbering the current paragraphs (1), (2) and (3) as paragraphs (2), (3) and (4), and is further amended by deleting renumbered subparagraphs (2) (e), (2) (k), (2) (n), (3) (a) and (3) f) in their entirety and substituting instead the following language, so that as amended, the new paragraph (1) and the newly renumbered subparagraphs (2) (e), (2) (k), (2) (n), (3) (a) and (3) f) shall read:

- (1) Temporarily Certified Master Social Worker. Any individual holding a master's or doctorate degree in social work, as provided in T.C.A. § 63-23-102, granted after April, 2005 by a university, college, or school of social work which is in the process of seeking accreditation by the Council on Social Work Education, may make application for certification as a temporarily certified master social worker.

RULEMAKING HEARINGS

- (a) An applicant shall obtain a current application form from the Board's web page on the Internet. In the absence of access to the Internet, an applicant may obtain the application from the Board's administrative office.
- (b) Applicants who are presently practicing pursuant to T.C.A. § 63-23-102 (e) must apply for temporary certification as a Certified Master Social Worker within ninety (90) days of the effective date of this rule paragraph. No applicant may continue to practice after the effective date of this rule paragraph without temporary certification as a Certified Master Social Worker.
- (c) An applicant shall respond truthfully and completely to every question or request for information contained in the application form, and submit it along with all documentation and fees required by the form and this rule to the board's administrative office. It is the intent of this rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.
- (d) At the time of application, an applicant shall pay the temporary certification and State Regulatory fees as provided in Rule 1365-1-.06.
- (e) An applicant shall submit with his application a "passport style" photograph taken within the preceding twelve (12) months.
- (f) It is the applicant's responsibility to request a graduate transcript from his institution pursuant to T.C.A. § 63-23-102 be submitted directly from the school to the board's administrative office. This transcript must show that the degree has been conferred and carry the official seal of the institution. The transcript must show a master's or doctorate degree in social work. The applicant must demonstrate to the board, by a preponderance of the evidence that the degree program is in the process of seeking accreditation by the Council on Social Work Education. The degree must have been granted prior to the date of the application for certification.
- (g) An applicant shall disclose the circumstances surrounding any of the following:
 - 1. Conviction of any criminal law violation of any country, state, or municipality, except minor traffic violations.
 - 2. The denial of certification or licensure application by any other state or the discipline of the certificate or license holder in any country, state, or municipality.
 - 3. Loss or restriction of certification or licensure privileges.
 - 4. Any other civil suit judgment or adverse settlement in which the applicant was party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity, or other civil action remedy recognized under the country's or state's statutory, common, or case law.
- (h) If an applicant holds or has ever held a certificate or license to practice as a social worker in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement from each state licensing board which indicates the applicant holds a certificate or license and whether it is in good standing presently or was at the time it became inactive.

RULEMAKING HEARINGS

- (i) The board may request information directly from various sources; however, it is the applicant's responsibility to submit the documentation or cause to be submitted the documentation necessary to complete the file.
 - (j) Personal resumes will not be accepted in lieu of any part of the application and will not be reviewed.
 - (k) The burden is on the applicant to prove by a preponderance of the evidence that his course work is equivalent to the Board's requirements.
 - (l) The temporary certification is required prior to beginning the supervised clinical experience needed for licensure as a clinical social worker who practices independently.
 - (m) A Temporarily Certified Master Social Worker must submit an application for Certified Master Social Worker within thirty (30) days after his/her educational institution receives accreditation from the Council on Social Work Education, or the temporary certification shall no longer be valid.
 - (n) The temporary certification shall no longer be valid if the Board learns that the educational institution's application for accreditation from the Council on Social Work Education has been denied or withdrawn.
- (2) (e) It is the applicant's responsibility to request a graduate transcript from his institution pursuant to T.C.A. § 63-23-102 be submitted directly from the school to the board's administrative office. This transcript must show that the degree has been conferred and carry the official seal of the institution. The transcript must show a master's or doctorate degree in social work. The applicant must demonstrate to the board, by a preponderance of the evidence, that the degree program documented by the transcript meets the requirements of T.C.A. § 63-23-102. The degree must have been granted prior to the date of the application for certification.
- (2) (k) The Board may request information directly from various sources; however, it is the applicant's responsibility to submit the documentation or cause to be submitted the documentation necessary to complete the file. The Board shall, in its discretion, determine if any components of the documentation previously submitted pursuant to paragraph (1) are acceptable.
- (2) (n) Certification as a temporarily certified master social worker or as a certified master social worker is required prior to beginning the supervised clinical experience needed for licensure as a clinical social worker who practices independently.
- (3) (a) Certification as a temporarily certified master social worker or as a certified master social worker is required is a prerequisite to filing an application for licensure and/or beginning a supervised clinical experience for the purpose of licensure. A photocopy of the applicant's current CMSW certificate or temporarily CMSW certificate must accompany the LCSW application.
- (3) (f) Except for applicants who are currently certified in Tennessee as a CMSW or as a temporarily CMSW, an applicant must provide a photocopy of his diploma or official transcript. An official transcript must be sent directly from the school to the board's administrative office.

RULEMAKING HEARINGS

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, and 63-23-108.

Rule 1365-1-.06, Fees, is amended by adding the following language as new subparagraph (1) (j) and part (4) (a) 7.

- (1) (j) Temporary Certification fee - A nonrefundable fee to be paid by all applicants for temporary certification as a master social worker, and must be paid each time an application for licensure is filed.

- (4) (a) 7. Temporary Certificate \$50.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, and 63-23-108.

Rule 1365-1-.10, Supervision, is amended by deleting paragraph (2) but not its subparagraphs, and substituting instead the following language, so that as amended, the new paragraph (2), but not its subparagraphs, shall read:

- (2) The L.C.S.W. applicant by examination, after having become a certified master social worker or a temporarily certified master social worker, shall have completed a total of two thousand (2,000) clinical contact hours over not less than a two (2) year period. The L.C.S.W. applicant by reciprocity shall have completed a total of two thousand (2,000) clinical contact hours over not less than a two (2) year period.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-103, and 63-23-108.

Rule 1365-1-.12, Continuing Education, is amended by deleting subparagraphs (3) (d), (7) (b) and (7) (c) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (3) (d), (7) (b) and (7) (c) shall read:

- (3) (d) For Certified Master Social Worker applicants, successful completion of the education requirements, pursuant to rule 1365-1-.04, shall be considered sufficient preparatory education to be substituted for the required hours of continuing education for the remainder of the calendar year in which the education requirements were completed.

- (7) (b) Reactivation of a Revoked Certificate or License - No person whose certificate or license has been revoked for failure to comply with continuing education may be reactivated without complying with these requirements. Continuing education requirements will accumulate at the same rate as for those certificates or licenses which are active. A certificate or license which has been revoked for non-compliance with the continuing education requirement shall also be subject to the late renewal fee pursuant to Rule 1365-1-.06.

- (7) (c) Reinstatement of an Expired Certificate or License – No person whose certificate or license has expired may be reinstated without submitting evidence of continuing education. The continuing education hours documented at the time of reinstatement must equal the hours required, had the certificate or license remained in an active status.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-23-102, 63-23-104, 63-23-105, 63-23-106, and 63-23-108.

RULEMAKING HEARINGS

Rule 1365-1-.22, Free Health Clinic and Volunteer Practice Requirements, is amended by deleting part (1) (a) 3. in its entirety and substituting instead the following language, so that as amended, the new part (1) (a) 3. shall read:

- (1) (a) 3. For social workers who have not been licensed or certified in Tennessee, comply with all provisions of subparagraphs (4) (e) and (4) (f) of rule 1365-1-.05 and the Health Care Consumer-Right-To-Know Act compiled at T.C.A. §§ 63-51-101, et seq.; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-701 through 63-6-707, 63-23-102, 63-23-103, 63-23-108, 63-23-109, and 63-28-110.

The notice of rulemaking set out herein was properly filed in the Department of State on the 4th day of August, 2006. (08-03)

RULEMAKING HEARINGS

TENNESSEE DEPARTMENT OF TRANSPORTATION - 1680 COMMUNITY RELATIONS DIVISION AND OFFICE OF GENERAL COUNSEL

There will be a hearing before the Tennessee Department of Transportation to consider the promulgation of new rules concerning the inspection and copying of Department records. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-204, and will take place in the Auditorium of the Main Administrative Building (Building "A") at the Tennessee Department of Transportation, Region III Office Complex, located at 6601 Centennial Boulevard, Nashville, Tennessee 37243 at 1:30 p.m. CDT on Tuesday, October 24, 2006. (Take Interstate 40 to Exit 204, and then take Briley Parkway northbound to Exit 26B, Centennial Boulevard West.)

Written comments will be considered if received by the close of business (4:30 p.m.) on October 24, 2006, in the Office of General Counsel, Tennessee Department of Transportation, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, or if received at the public rulemaking hearing on October 24, 2006.

Individuals with disabilities wishing to participate in these proceedings (or to review these filings) should contact the Department of Transportation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone or other appropriate means, and should be made no less than ten (10) days prior to the public hearing (October 24, 2006) or the date the party intends to review such filings to allow time to provide such aid or service. Such contact may be made with the Department of Transportation's ADA Coordinator at Suite 400, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, or by telephone at (615) 741-4984.

For a copy of this notice of rulemaking hearing, contact: John Reinbold, Tennessee Department of Transportation, Office of General Counsel, Suite 300, James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37243, telephone number (615) 741-2941.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1680-4-2 INSPECTION AND COPYING OF DEPARTMENT RECORDS

NEW RULES

TABLE OF CONTENTS

1680-4-2-.01	Purpose
1680-4-2-.02	Definitions
1680-4-2-.03	General Information
1680-4-2-.04	Inspection of Public Records
1680-4-2-.05	Copying of Public Records
1680-4-2-.06	Payment of Costs for Reproducing Public Records
1680-4-2-.07	Appendices

1680-4-2-.01 PURPOSE.

The purpose of these rules is to establish procedures to accommodate requests from the public to inspect and/or copy records maintained by the Tennessee Department of Transportation, to the extent that such records are public records open to inspection by citizens of the State of Tennessee under the Tennessee

RULEMAKING HEARINGS

Public Records Act, T.C.A. § 10-7-501, et seq., while at the same time preserving the confidentiality of confidential records and/or confidential information as provided in Federal or State law. In addition, these rules establish procedures and standard fees for recovering the cost of providing copies of public records upon request.

Authority: T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.

1680-4-2-.02 DEFINITIONS.

As used in these rules, the following terms are defined as follows:

- (1) "Aerial Surveys Office" means the Aerial Surveys Office of the Tennessee Department of Transportation.
- (2) "Commissioner" means the Commissioner of the Tennessee Department of Transportation.
- (3) "Community Relations Division" means the Community Relations Division of the Tennessee Department of Transportation.
- (4) "Confidential record" means any Department record that is considered confidential or privileged under Federal or State law, including without limitation, and without waiving any privilege or any right to confidentiality available under Federal or State law, as follows:
 - (a) Any record or portion of any record that is not subject to public inspection or is defined as confidential under the Public Records Act;
 - (b) Any record or portion of any record that is not subject to discovery or admissible into evidence in any Federal or State court proceeding or in any action for damages under the provisions of 23 U.S.C. § 409;
 - (c) Any record or portion of any record that is otherwise protected as confidential or privileged under any Federal or State law or regulation or pursuant to any court order;
 - (d) Any record that is protected under the attorney/client privilege;
 - (e) Any record that is protected under the attorney work product doctrine; and
 - (f) Any record that is protected under any other statutory or common law privilege.
- (5) "Construction Division" means the Construction Division of the Tennessee Department of Transportation.
- (6) "Copy Center" means the Copy Center for the Tennessee Department of Transportation.
- (7) "Department" means the Tennessee Department of Transportation.
- (8) "Legal Office" means the Tennessee Department of Transportation, Office of General Counsel.
- (9) "Map Sales Office" means the Map Sales and Publications Office of the Tennessee Department of Transportation.

RULEMAKING HEARINGS

- (10) “Non-routine record” means a record, in any form, that cannot be readily produced for public inspection or copied upon request without more than minimal assistance from the Records Custodian to whom the request has been made, and including without limitation, as follows:
- (a) Archived records;
 - (b) Microfilmed records;
 - (c) Audio recordings;
 - (d) Records accessed only through the manipulation of electronically or digitally stored information;
 - (e) Oversized pages or bound volumes that cannot be fed automatically into and copied on a standard office photocopier; and
 - (f) Records containing or located within files containing material that may be a confidential record under Federal or State law.
- (11) “Plan Sales Office” means the Plan Sales Office of the Tennessee Department of Transportation.
- (12) “Public Information Officer” means the Public Information Officer of the Tennessee Department of Transportation.
- (13) “Public record” means any Department record that is open to inspection by any citizen of the State of Tennessee under the provisions of the Public Records Act, and is not otherwise considered a confidential record under Federal or State law.
- (14) “Public Records Act” means the Tennessee Public Records Act as codified in Tennessee Code Annotated, Section 10-7-501, et seq.
- (15) “Record” means any document or stored information, in any form, that has been generated or received and maintained by the Department pursuant to law or in connection with the transaction of the Department’s official business.
- (16) “Record available for purchase” means a record generated by the Department in connection with official business that the Department also offers for sale to other governmental agencies, bidders, and/or individuals as a service to the public, including without limitation as follows:
- (a) Maps and publications that are available from the Map Sales Office;
 - (b) Plan sheets from the Department’s final roadway right-of-way plans, final roadway construction plans, and structural plans that are available from the Plan Sales Office;
 - (c) Aerial photographs and films that are available from the Aerial Surveys Office;
 - (d) Standard Specifications for Road and Bridge Construction, Standard Roadway Drawings, and contract proposal books for current construction projects being let to bid that are available from the Construction Division; and
 - (e) Construction plans for current projects being let to bid that are available from the Copy Center.

RULEMAKING HEARINGS

- (17) "Records Custodian" means an employee of the Department, or the designee of such employee, who has direct supervisory authority over the specific division, section or office of the Department where the requested Department records are maintained.
- (18) "Redacted record" means a record that has been edited to remove information that is confidential under Federal or State law so as to generate a public record available for inspection and copying under the Public Records Act.
- (19) "Routine record" means a public record, in any form, that can be readily produced for public inspection or copied upon request with minimal assistance from the Records Custodian of the Department to whom the request has been made, and including without limitation as follows:
 - (a) An unbound paper record of standard letter or legal size which can be automatically fed into and copied on a standard office photocopier;
 - (b) Any electronically or digitally stored record that can be readily accessed and printed on a standard office printer; provided, however, that such a record shall not be considered a routine record if each separate screen-page of the record must be printed as a separate page.

Authority: *T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.*

1680-4-2-.03 GENERAL INFORMATION.

(1) Business Hours.

A request to inspect or copy public records of the Department pursuant to the Public Records Act shall be made, and any inspection or copying shall be conducted, during the Department's normal business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays, unless the Department expressly authorizes the inspection or copying of public records outside of normal business hours.

(2) Notice of Requests.

- (a) Notice of a request to inspect or copy public records of the Department, other than a record available for purchase, may be made orally or in writing to the Community Relations Division, Public Information Officer, Legal Office, or to an appropriate Records Custodian of the Department where the requested records are maintained. The contact information for the Community Relations Division, Public Information Officer, and the Legal Office is indicated below.
- (b) The Department may request the notice to be made or confirmed in writing if, in the judgment of the Department, the request is for any non-routine record or for multiple routine records that cannot be readily produced for inspection in the specific office where the request has been made. The Department may require a request for copies of public records to be made in writing.
- (c) Any form of written notice, e.g., letter, facsimile transmission or e-mail, will be acceptable.
- (d) The notice shall identify the record or records requested for inspection or copying with as much specificity as reasonably possible.

RULEMAKING HEARINGS

- (e) Any record available for purchase may be obtained by contacting the appropriate office where the record is offered for sale to the public. The contact information is indicated below.
- (3) Department Contact Information.

- (a) Inspection and/or Copying of Public Records.

To obtain assistance in processing a request to inspect and/or obtain copies of public records of the Department, a requestor may contact the Community Relations Division, Public Information Officer, or Legal Office. The current contact information for these offices, which may be subject to change without amendment of these rules, is as follows:

1. Community Relations Division
Tennessee Department of Transportation
Suite 700, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-7736
Fax: 615-741-9093
2. Public Information Officer
Tennessee Department of Transportation
Suite 700, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-2331
Fax: 615-741-9093
3. Office of General Counsel
Tennessee Department of Transportation
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-2941
Fax: 615-532-5988

- (b) Records Available for Purchase.

1. To request assistance in purchasing Department maps and publications, a requestor may contact the Map Sales Office. The current contact information for the Map Sales Office, which may be subject to change without amendment of these rules, is as follows:

Map Sales and Publications Office
Tennessee Department of Transportation
Suite 300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-2195
Fax: 615-741-1791
Web site: www.tdot.state.tn.us/longrange/mapsales.htm

RULEMAKING HEARINGS

2. To request assistance in purchasing copies of plan sheets from the Department's final roadway right-of-way plans, final roadway construction plans, or structural plans, a requestor may contact the Plan Sales Office. The current contact information for the Plan Sales Office, which may be subject to change without amendment of these rules, is as follows:

Plan Sales Office
Tennessee Department of Transportation
Suite 1300, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-3337
Fax: 615-532-2799

3. To request assistance in purchasing the Department's aerial photographic products, a requestor may contact the Aerial Surveys Office. The current contact information for the Aerial Surveys Office, which may be subject to change without amendment of these rules, is as follows:

Aerial Surveys Office
Tennessee Department of Transportation
521 Olan Taylor Drive
Nashville, Tennessee 37217
Telephone: 615-741-2875
Fax: 615-532-9654

4. To request assistance in purchasing the Department's Standard Specifications for Road and Bridge Construction, Standard Roadway Drawings, or contract proposal books for construction projects that the Department is currently letting to contract, the requestor may contact the Construction Division. The current contact information for the Construction Division, which may be subject to change without amendment of these rules, is as follows:

Construction Division
Tennessee Department of Transportation
Suite 700, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-2414
Fax: 615-741-0782

5. To request assistance in purchasing copies of construction plans for projects that the Department is currently letting to contract, the requestor may contact the Copy Center. The current contact information for the Copy Center, which may be subject to change without amendment of these rules, is as follows:

TDOT Copy Center
A Level, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243
Telephone: 615-741-2048
Fax: 615-532-2886

RULEMAKING HEARINGS

1680-4-2-.04 INSPECTION OF PUBLIC RECORDS.

(1) Preliminary Review of Request.

- (a) Upon receiving a request to inspect a Department record pursuant to the Public Records Act, other than a record available for purchase, the Records Custodian or other office of the Department to which the request is directed shall make a preliminary assessment of the nature and scope of the request to determine whether the request is for a routine record or non-routine record.
- (b) The Records Custodian or other office to which the request is directed may refer the request to Community Relations Office, Public Information Officer, or Legal Office, as appropriate, for assistance in processing a request to inspect public records.

(2) Routine Records.

If the Records Custodian determines that the request is for a routine public record or records located within the specific office of the Department to which the request has been made, the Records Custodian shall make the record or records available to the requestor for inspection as soon as reasonably practicable during normal business hours, taking into consideration the volume of the request and the availability of Department staff as needed to maintain custody of the record or records during the inspection.

(3) Non-Routine Records.

- (a) If the Records Custodian or other office of the Department to which the request is directed or referred determines that the requested record or records cannot readily be made available for inspection by the requestor at the time and place of the request, the Records Custodian or other office shall explain to the requestor why additional time will be needed to make the record or records available, including without limitation any of the following reasons:
 - 1. The request is for a record or records not located within the specific office of the Department to which the request has been made;
 - 2. The request is for a record that, at the time of the request, is being used to conduct official business of the Department;
 - 3. The volume of the request is such that the requested records cannot, at the time of the request, be readily produced for inspection within a reasonable time during normal business hours;
 - 4. The request is for a non-routine record, including without limitation a record that may be, or a file that may contain, a confidential record or a record that may contain confidential information that must be redacted before it can be made available for public inspection;
 - 5. The request is for a record that is maintained in an electronic, digital, or other non-printed form and cannot be readily accessed because of an equipment malfunction;
 - 6. The request is for a record or information that is maintained in an electronic or digital database or other non-printed form and providing access to the record will require development of a program/application or the reloading of backup files in order to produce the record or put it into a readable format; or

RULEMAKING HEARINGS

7. Any other similar reason that makes it impracticable for the Department to make the record available for inspection at the time and place of the request.
 - (b) To preserve a record of the request, the Records Custodian or the office of the Department to which the request has been made or referred may ask the requestor to submit or confirm the request in writing, in accordance with Rule 1680-4-2-.03(2) above.
 - (c) In processing a request for the inspection of non-routine records, the Department will first determine whether the requested records exist within the custody of the Department. If the requested records exist within the custody of the Department, the Department will locate and review the requested records as soon as reasonably practicable, taking into consideration the nature and/or volume of the request and the availability of Department staff.
 - (d) Upon completing its review of the requested records, the Department will communicate with the requestor in writing or by telephone concerning the time, place and manner in which the requested public records may be made available for inspection.
 - (e) If the requested records do not exist within the custody of the Department, or if the requested records are confidential records not available for public inspection, such fact shall be communicated to the requestor; provided, however, that nothing in this Chapter shall be construed to require the Department to generate a detailed description of each confidential record withheld from inspection, such as may be required with respect to the production of documents in discovery under the Tennessee Rules of Civil Procedure.
 - (f) If a requested record contains confidential information (e.g., certain information maintained in personnel records) but is otherwise a public record, the Department will generate a copy of the record from which the confidential information has been removed and the redacted record will be made available for inspection. As provided in Rule 1680-4-2-.06(5) below, the Department may require reimbursement for the employee time associated with making the redacted record.
 - (g) If the requested record or information is available in an electronic or digital database or other non-printed form, and providing access to the record will require development of a program/application or the reloading of backup files to produce the record or put it into a readable format, the Department may require reimbursement for any employee time and/or other costs associated with developing the program or application and producing the record for inspection, as provided in Rule 1680-4-2-.06(6) below.
- (4) Form of Record Produced.

Nothing in this Chapter shall be construed to require the Department to make any public record available for inspection in the exact form requested by the requestor, e.g., the Department may make a public record maintained in electronic or digital form available for inspection in printed form.

Authority: *T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.*

1680-4-2-.05 COPYING OF PUBLIC RECORDS.

- (1) Preliminary Review of Request.

RULEMAKING HEARINGS

- (a) Upon receiving a request to obtain a copy of a Department record pursuant to the Public Records Act, other than a record available for purchase, the Records Custodian or other office of the Department to which the request is directed shall make a preliminary assessment of the nature and scope of the request to determine whether the request is for a routine record or non-routine record.
 - (b) The Records Custodian or other office to which the request is directed may refer the request to Community Relations Office, Public Information Officer, or Legal Office, as appropriate, for assistance in processing a request for copies of public records.
- (2) Routine Records.
- (a) If the Records Custodian determines that the request is for a routine public record or records located within the specific office of the Department where the request has been made, and the request has not been referred to the Community Relations Division, Public Information Officer, or Legal Office as provided above, the Department shall have the requested record or records located and copied as soon as reasonably practicable during normal business hours, taking into consideration the volume of the request and the availability of Department staff as needed to maintain custody of the record or records while it is being copied.
 - (b) The Department shall charge the requestor for the cost of making the copy, as provided in Rule 1680-4-2-.06 below. Except as may otherwise be provided in these rules, payment will be required prior to receipt of the copy.
- (3) Non-Routine Records.
- (a) If the Records Custodian or other office of the Department to which the request is directed or referred determines that copies of the requested record or records cannot be readily made at the time and place of the request, the Records Custodian or other office shall explain to the requestor why additional time will be needed to make copies of the record or records available, including without limitation any of the following reasons:
 - 1. The request is for a record or records not located within the specific office of the Department where the request has been made;
 - 2. The request is for a record that, at the time of the request, is being used to conduct official business of the Department;
 - 3. The volume of the request is such that the requested records cannot, at the time of the request, be readily copied within a reasonable time during normal business hours;
 - 4. The request is for a non-routine record, including without limitation a record that may be, or a file that may contain, a confidential record or a record that may contain confidential information that must be redacted before it can be copied;
 - 5. The request is for a record that is maintained in an electronic, digital, or other non-printed form and cannot be readily accessed or copied because of an equipment malfunction;
 - 6. The request is for a record or information that is maintained in an electronic or digital database or other non-printed form and providing access to the record will require development of a program/application or the reloading of backup files in order to produce the record or put it into a readable format; or

RULEMAKING HEARINGS

7. Any other similar reason that makes it impracticable for the Department to provide a copy of the record at the time of the request.
 - (b) To preserve a record of the request, Records Custodian or other office of the Department to which the request has been made or referred may require the requestor to submit or confirm the request in writing, in accordance with Rule 1680-4-2-.03(2) above.
 - (c) In processing a request for copies of non-routine records, the Department will first determine whether the requested records exist within the custody of the Department. If the requested records exist within the custody of the Department, the Department will locate and review the requested records as soon as reasonably practicable, taking into consideration the nature and/or volume of the request and the availability of Department staff.
 - (d) Upon completing its review of the requested records, the Department will communicate with the requestor in writing or by telephone concerning the availability of the records, the cost to procure copies, and the manner in which the copies may be delivered to the requestor. Upon confirming the request and receiving payment for the copy costs (unless waived as provided in Rule 1680-4-2-.06(8) below), the Department will deliver the requested copies of public records to the requestor in the agreed upon manner.
 - (e) If the requested records do not exist within the custody of the Department, or if the requested records are confidential records not available to the public, such fact shall be communicated to the requestor; provided, however, that nothing in this Chapter shall be construed to require the Department to generate a detailed description of each confidential record not copied, such as may be required with respect to the production of documents in discovery under the Tennessee Rules of Civil Procedure.
 - (f) If a requested record contains confidential information (e.g., certain personal information maintained in personnel records) but is otherwise a public record, the Records Custodian will generate a copy of the record from which the confidential information has been removed and the redacted record will be copied. As provided in Rule 1680-4-3-.06(5) below, the Department may require reimbursement for the employee time associated with making the redacted record in addition to payment for the cost of copying the redacted record.
 - (g) If the requested record or information is maintained in an electronic or digital database or other non-printed form and providing a copy of the record will require development of a program/application or the reloading of backup files to produce the record or put it into a readable format, the Department may require reimbursement for any employee time and/or other costs associated with developing the program or application and producing the record, as provided in Rule 1680-4-2-.06(6) below. This charge shall be in addition to reimbursement for the cost of copying the record or records that have been produced.
- (4) Records Available for Purchase.

If the request is for a copy of any of the following records available for purchase, the requestor will be referred to the identified office to purchase the requested record:

- (a) Maps and publications that are available from the Map Sales Office;
- (b) Aerial photographic products that are available from the Aerial Surveys Office;
- (c) Plan sheets from the Department's final roadway right-of-way plans, final roadway construction plans, or structural plans that are available from the Plan Sales Office;

RULEMAKING HEARINGS

- (d) Standard Specifications for Road and Bridge Construction, Standard Roadway Drawings, or contract proposal books for projects currently being let to contract that are available from the Construction Division; or
- (e) Construction plans for projects currently being let to contract that are available from the Copy Center.

The contact information for each of these offices is provided in Rule 1680-4-2-.03(3) above.

(5) Form of Record Copied.

Nothing in this Chapter shall be construed to require the Department to reproduce a public record in the exact form requested by the requestor, e.g., the Department may provide a printed copy of a public record maintained in electronic or digital form.

(6) Custody of Records.

- (a) The Department shall maintain custody of Department records at all times. Except where the use of a commercial copier service has been authorized, as provided in Rule 1680-4-2-.06(3) below, the Department will make and provide the requested copies to the requestor as soon as reasonably practicable, given the nature and volume of the request and the availability of Department staff.
- (b) A requestor shall not be allowed to take custody of any Department record or use a personal photocopier, personal computer, or other personal equipment of any kind to make photocopies, download electronic or digital records, reproduce computer disks, or otherwise mechanically reproduce any Department record; provided, however, that this shall not be construed to prohibit a requestor from making personal notes or manually copying all or part of the contents of a Department record.

(7) Plans Disclaimer and Limitation of Liability Agreement.

When providing a copy, in any form, of project plans or any part thereof, the Department may require the recipient to sign a plans disclaimer and limitation of liability agreement as a precondition for receiving a copy of the plans or portion of plans. The plans disclaimer and limitation of liability agreement may contain, at a minimum, the terms and conditions shown in Appendix 1 of Rule 1680-4-2-.07 below; provided, however, that the form may be modified or terms and conditions may be added as appropriate in particular circumstances.

Authority: T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.

1680-4-2-.06 PAYMENT OF COSTS FOR REPRODUCING PUBLIC RECORDS.

(1) Standard Copy Charges.

- (a) Paper Photocopies or Printings.

Except as may be provided elsewhere in this rule, the Department shall charge for the costs of making and providing paper photocopies or printings of public records as follows:

RULEMAKING HEARINGS

<u>Record page size</u>	<u>Cost (black & white)</u>	<u>Cost (color)</u>
1. 8 ½" x 11" (letter size)	\$.50/page	\$1.00/page
2. 8 ½" x 14" (legal size)	\$.60/page	\$1.20/page
3. 11" x 17" or 12" x 18"	\$2.00/page	\$4.00/page
4. 24" x 36"	\$4.00/page	\$8.00/page
5. >24" x 36"	\$.75/sq. ft. or part thereof	\$1.50/sq. ft. or part thereof

Copies of irregular-sized records will be charged at the cost for the nearest regular size page identified above.

(b) Electronic Copies.

1. Electronic copies of public records may be provided at the discretion of the Department. If provided, electronic copies shall be charged at a minimum of \$10.00 per CD disk containing 650 megabytes, if available.
2. The charge per CD disk shall be in addition to any costs associated with the production of records from a database or backup files, as provided in paragraph (6) of this Rule below.

(2) Records Available for Purchase.

The Department will offer the following kinds of records for sale to the public at standard prices, plus sales tax and shipping charges, if applicable. The products identified and the prices indicated below are given for informational purposes only and may be subject to change without amendment of these rules.

(a) Plan Sheets Available from the Plan Sales Office.

Plan sheets from final roadway right-of-way plans, final roadway construction plans, and structural plans may be purchased from the Plan Sales Office at the following prices, plus sales tax and shipping charges, if applicable:

- | | |
|---|-------------|
| 1. Half-size plans (12" x 18" or 11" x 17") | \$2.00/page |
| 2. Full-size plans (24" x 36") | \$4.00/page |

(b) Current Construction Plans Available from the Copy Center.

A full set of construction plans for projects that the Department is currently letting to contract may be purchased from the Copy Center at the following prices, plus sales tax and shipping charges, if applicable:

RULEMAKING HEARINGS

<u>Total Number of Pages</u>	<u>Cost</u>
1. 1 to 10 pages	\$ 3.00
2. 11 to 50 pages	\$ 10.00
3. 51 to 100 pages	\$ 25.00
4. 101 to 200 pages	\$ 50.00
5. 201 to 250 pages	\$100.00
6. For each additional 50-page increment, or portion thereof, greater than 250 pages	\$ 25.00

(c) Publications Available from the Construction Division.

The following publications may be purchased from the Construction Office at the following prices, plus sales tax and shipping charges, if applicable:

1. Current contract proposal books:	\$25.00
1. Standard Specifications for Road and Bridge Construction	\$12.00
3. Standard Roadway Drawings	\$100.00

(d) Aerial Photographic Products Available from the Aerial Surveys Office.

1. Photographic Product Prices for State Agencies (effective 3/1/2004).

<u>Item Description</u>	<u>Cost/Unit</u>
P31 Aerial photography, serial film, black & white	\$1.85/linear ft.
P32 Aerial photography, aerial film, color	\$7.20/linear ft.
P33 Aerial photography, contact print	\$0.55/each
P34 Aerial photography, paper enlargements	\$0.75/sq. ft.
P35 Film, continuous tone negative	\$2.55/sq. ft.
P36 Aerial photography film, limited tonal range, or halftone transparencies, reproducible	\$1.75/sq. ft.
P36 Film reproductions, line negatives	\$1.75/sq. ft.
P36 Film reproduction, line transparencies	\$1.75/sq. ft.
P37 Aerial photography, film diapositives (continuous tone transparencies)	\$4.20/each

RULEMAKING HEARINGS

P38	Small format black & white film TMY	\$4.75/each
P39	Medium format black & white film	\$3.25/roll
P40	Medium format color film negative	\$3.75/roll
P41	Medium format, color slide	\$9.75/roll, plus vendor's processing charge
P42	Medium format color slide film	\$10.50/roll, plus vendor's processing charge
P43	Small format color negative film	\$5.00/each
P58	Scanning Digital Photographs	\$5.83/each

2. Photographic Product Prices for Other Purchasers (effective 3/1/2004).

<u>Item</u>	<u>Description</u>	<u>Cost/Unit</u>
O33	Aerial photography, contact prints	\$3.00/each
O34	Aerial photography, paper enlargements	\$3.00/sq. ft.
O35	Film, continuous tone film	\$5.00/sq. ft.
O36	Aerial photography, film limited tonal range or halftone transparencies, reproducible	\$4.00/sq. ft.
O36	Film reproductions, line negatives	\$4.00/sq. ft.
O36	Film reproductions, line transparencies	\$4.00/sq. ft.
O37	Aerial photography, film diapositives (continuous tone transparencies)	\$10.00/each
O38	Aerial photography, aerial film continuous tone duplicate negative film (film transparency required for reproduction duplicate negative)	\$20.00/each
O58	Scanning Digital Photographs	\$8.25/each
O59	Initial Set Up Fee (Research Fee)	\$10.00/each

All sales are subject to sales tax and shipping costs, if applicable.

(e) Maps and Publications Available from the Map Sales Office.

RULEMAKING HEARINGS

The current prices (effective January 1, 2003) for maps and publications currently available for purchase through the Map Sales Office are posted on the Map Sales Office web page at www.tdot.state.tn.us/longrange/mapsales.htm and are incorporated herein by reference. The product listing and prices are subject to change without amendment of these rules. All sales are subject to sales tax and shipping charges, if applicable.

(3) Use of Commercial Copier Services.

If a request for copies involves a large volume of public records or for the convenience of the Department in other appropriate circumstances, the Department may, in its sole discretion, authorize public records to be taken to a commercial copier service for copying. In such cases, the Department shall assign a Department employee or employees to transport the records to and from the commercial copier service and to maintain custody of the records at all times. In addition to paying the commercial copier service for the cost of making the copies, the requestor shall reimburse the Department for the full cost of employee time expended in gathering, transporting and maintaining custody of the requested records. The cost shall be calculated by multiplying the total number of hours expended times the employee's hourly wage rate plus the cost of any applicable employee benefits and overtime pay as required by law.

(4) Recovery of Development Costs for Public Records Having Commercial Value.

(a) If the request is for a copy of a public record that has commercial value, and such request requires the reproduction of all or a portion of a computer generated map or other similar geographic data that was developed with public funds, the Department may charge a fee to recover costs associated with development of the map or geographic data, as provided in Tennessee Code Annotated § 10-7-506. This charge shall be in addition to any fees charged for the cost of copying the record as provided elsewhere in this Rule.

(b) For the purposes of this paragraph, a "public record that has commercial value" means a public record requested for any purpose other than:

1. A non-business use by an individual; and
2. A news gathering use (broadcast or publication) by a news media organization.

(c) The recovery of development costs from a requestor shall be limited to not more than ten percent (10%) of the total actual costs relating to the development of the computer generated map or other geographic data, including:

1. Labor costs;
2. Costs incurred in design, development, testing, implementation and training; and
3. Costs necessary to ensure that the map or data is accurate, complete and current, including the cost of adding to, updating, modifying and deleting information.

(5) Production of Redacted Records.

If a record must be edited to remove confidential information in order to generate a copy of a public record for inspection and/or copying, the requestor shall reimburse the Department for the full cost of employee time expended in redacting the record or records. The cost shall be calculated by multiplying the total number of hours expended times the employee's hourly wage rate plus

RULEMAKING HEARINGS

the cost of any applicable employee benefits and overtime pay as required by law. The charge for producing a redacted record shall be in addition to any fees charged for the cost of copying the public record as provided elsewhere in this Rule.

- (6) Production of Records from a Database or Backup Files.
 - (a) If the requested record or information is maintained in an electronic or digital database or other non-printed form and providing the record for inspection and/or copying will require development of a program/application or the reloading of backup files to produce the record or put it into a readable format, the requestor shall reimburse the Department for the full cost of employee time and/or other costs, including the cost of services provided by an independent contractor, associated with developing the program/application or the reloading of backup files to produce the record. The charge for producing the record shall be in addition to any fees charged for the cost of copying the public record as provided elsewhere in this Rule.
 - (b) The cost of employee time shall be calculated by multiplying the total number of hours expended times the employee's hourly wage rate plus the cost of any applicable employee benefits and overtime pay as required by law.
 - (c) The cost of services provided by an independent contractor shall be the actual cost charged to the Department by the contractor in accordance with the unit rates established in the Department's contract.
- (7) Payment of Production and Copy Costs.
 - (a) Unless waived in accordance with Rule 1680-4-2-.06(8) below, all production and copy costs shall be remitted to the Department prior to or immediately upon receipt of any copies of a public record or records. These copy costs include the cost of producing redacted records and/or the cost of producing records from a database or backup files, if applicable, and shipping charges, if applicable, as well as any standard copy charges as provided in this Rule.
 - (b) At the discretion of the Department, a requestor may be invoiced for the cost of providing copies of public records.
 - (c) Payment shall be remitted by check or money order made payable to the Tennessee Department of Transportation.
- (8) Waiver of Production and Copy Charges.
 - (a) The Department may waive production and/or copy charges for copies of public records provided to Federal, State or local governmental agencies or officials.
 - (b) The Department may waive production and/or copy charges for copies of public records provided to any person or entity that will use the records to perform work for the Department or to perform work for another person or entity in connection with and for the benefit of a construction project or other official business of the Department.
 - (c) The Department may waive copy charges for copies of a map, plan sheet, or other public record provided to any person or entity whose property may be directly impacted by a Department project.

RULEMAKING HEARINGS

- (d) The Department may waive copy charges if the request is for a routine record not exceeding ten (10) pages in length that may be readily copied and delivered to a requestor in person or by facsimile or e-mail transmission.

Authority: T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.

1680-4-2-.07 APPENDICES.

- (1) Appendix 1: Plans Disclaimer and Limitation of Liability Agreement.



Plans Disclaimer and Limitation of Liability Agreement

The Tennessee Department of Transportation (TDOT) is committed to providing access to files and plans. TDOT does not possess a staff that is available to provide technical support to outside parties who receive copies of plans. It is important, therefore, that all potential users of these plans read the following disclaimer and accept its terms as prerequisite to the use of the plans.

1. TDOT makes no warranty of any kind, express or implied, with respect to the plan(s) subject to this agreement, and specifically makes no warranty that said plan(s) shall be fit for any particular purpose. Furthermore, any description of said plan(s) shall not be deemed to create an express warranty that such plan(s) shall conform to said description.
2. Receiver assumes all risk and liability for any losses, damages, claims or expenses resulting from the use or possession of any plan(s) furnished by TDOT pursuant to this agreement.
3. Receiver agrees to indemnify, defend and hold harmless to the extent permitted by law TDOT, its officers, agents, and employees from and against any and all claims, suits, losses, damages and costs, including reasonable attorney's fees, arising from or by reason of receiver's use or possession with respect to any of the plan(s) furnished by TDOT pursuant to this agreement, and such indemnification shall survive acceptance of said plan(s) by receiver.
4. Since **revisions or additions to the design plan(s) may occur at any time**, the receiver agrees to indemnify, defend and hold harmless to the extent permitted by law TDOT, its officers, agents, and employees from and against any and all claims, suits, losses, damages or costs, including reasonable attorney's fees, arising from the use of outdated plans, and such indemnification shall survive acceptance of said plan(s) by receiver.
5. The design plan(s) are copyrighted by the Tennessee Department of Transportation and may not be resold.
6. These terms and conditions constitute the complete and final agreement of the parties hereto.
7. The undersigned is authorized by _____ to execute this agreement on its behalf. (Firm / Agency)

I accept the aforementioned terms and conditions.

Project: _____
 File (s): _____

Signature (Receiver)

Firm / Agency

Date

RULEMAKING HEARINGS

Authority: *T.C.A. §§ 4-3-2303(2), 10-7-503 and 10-7-506.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 31st day of August, 2006. (08-46-06)

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, 63-12-105 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 Division of Health Related Board's Conference Room on the Third Floor of the Heritage Place Building located at 227 French Landing, Nashville, TN at 2:30 p.m. (CST) on the 2nd day of November, 2006.

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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (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, 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243, (615) 532-4397.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

Rule 1730-1-.12, Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the present subparagraph (1) (b) as subparagraph (1) (c), and is further amended by deleting subparagraph (3) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b) and the new subparagraph (3) (b) shall read:

- (1) (b) A veterinarian is exempt from continuing education requirements during the calendar year he/she graduated from an approved school or college of veterinary medicine.
- (3) (b) Timely completion of continuing education credits is solely the responsibility of the licensee. Except as provided in subpart (3) (e) 2. (ii), the licensee must be physically present at these continuing education meetings and will be required to attest, at the time of renewal, that the requirement has been met.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, 63-12-120, and 63-12-121.

Rule 1730-1-.15, Disciplinary Actions, Civil Penalties, Assessment of Costs, and Screening Panels, is amended by adding the following language as new subparagraph (5) (e):

- (5) (e) The Board shall refund all monetary fines and civil penalties imposed and collected in fiscal years 2004-2005 and 2005-2006 for the artificial insemination of livestock without a veterinary medical license, upon receipt by June 30, 2008 of a written request for such refund and provided such funds are specifically appropriated by the General Appropriations Act.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-105, 63-12-112, 63-12-124, 63-12-128, and Public Chapter 716 of the Public Acts of 2006.

RULEMAKING HEARINGS

Rule 1730-3-.12, Continuing Education, is amended by deleting subparagraph (1) (c) in its entirety, and is further amended by inserting the following language as new subparagraph (1) (b) and renumbering the present subparagraph (1) (b) as new subparagraph (1) (c), and is further amended by deleting subparagraph (3) (a) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (1) (b) and the new subparagraph (3) (a) shall read:

- (1) (b) A veterinary medical technician is exempt from continuing education requirements during the calendar year he/she graduated from a school whereby the veterinary technology curriculum was approved by the American Veterinary Medical Association.
- (3) (a) Timely completion of continuing education credits is solely the responsibility of the licensee. Except as provided in subpart (3) (d) 2. (ii), the licensee must be physically present at these continuing education meetings and will be required to attest, at the time of renewal, that the requirement has been met.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-12-106, 63-12-120, 63-12-121, and 63-12-135.

The notice of rulemaking set out herein was properly filed in the Department of State on the 25th day of August, 2006. (08-37-06)

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 repealing 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 at the Holiday Inn Select, 304 Cedar Bluff Road, Knoxville, Tennessee, at 9:00 a.m., local time, on the 19th day of October, 2006.

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 1660-1-8 RULES AND REGULATIONS OF HUNTS

AMENDMENT

Rule 1660-1-8-.05(5), Permit Applications and Drawings, is amended by deleting paragraph (5) in its entirety and inserting a new paragraph (5) to read as follows:

- (5) Cherokee Special Hunts (Cherokee Wildlife Management Area in designated Areas).
 - (a) Cherokee special hunts consist of Party Hunts.
 - (b) No person may apply on more than one application. If two or more applications are received representing one individual, all applications of that individual will be rejected, the permit fee forfeited, and he/she will be subject to prosecution. Applications must be postmarked no later than the date specified. Persons applying for party hunts may also apply for quota big game hunts subject to rules found in paragraph (1). Quota big game hunt applicants may also apply for party hunts. Persons not drawn for a party hunt may obtain a vacancy permit for one party hunt date. However, no person may participate in or possess a permit for more than one Cherokee Party Hunt.
 - (c) The party application shall contain a minimum of forty (40) members and a maximum of sixty (60). All information requested on the application must be completed for all party applicants. Each applicant must submit the applicable permit fee. All individuals without appropriate licenses/fees will be deleted from the party. Non-residents may purchase the appropriate license after arrival in Tennessee. If the number of valid applicants on a single party application falls below the minimum of 40, the entire party will be deleted from the drawing.

RULEMAKING HEARINGS

- (d) A drawing will be held to determine the successful party applicants, hunt areas, and hunt dates. The first drawn and in subsequent order will be given their choice of the compartment and hunt date as specified on their application. Vacant hunts remaining after the drawing will not be issued and the area will be closed to big game hunting during that specific hunt.
- (e) The party leader may request no substitutions for members of the party who cannot appear, but may request vacancy permits providing the number does not increase the party beyond sixty (60) members. The party leader shall send all the hunter information requested on the vacancy application and the applicable fees for each permit requested. No blank permits will be issued. The deadline for requesting vacancy permits shall be shall be fourteen days prior to the hunt date.

Authority: T.C.A. §§70-1-206, 70-4-107, and 70-5-101

CHAPTER 1660-1-28 RULES AND REGULATIONS GOVERNING LICENSES, PERMITS, FEES

AMENDMENT

Rule 1660-1-28-.03(1), Wildlife Management Area And Designated Area Permits And Fees, is hereby amended by deleting Permit Types 96, 97, and 99 and inserting new Permit Types 96, 97, and 99 as follows:

96	3-Day Gatlinburg Trout Permit	\$9.00
97	Non-Resident 1-Day Gatlinburg Trout Permit	\$11.00
99	1-Day Gatlinburg Trout Permit	\$3.00

Authority: T.C.A. §§70-1-206 and 70-2-219

The notice of rulemaking set out herein was properly filed in the Department of State on the 15th day of August, 2006. (08-35-06)

WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION - 1660

PROCLAMATION 06-21

TEMPORARY SUSPENSION OF NO-WAKE ZONE ON PERCY PRIEST LAKE

Pursuant to the authority granted by Tennessee Code Annotated, Section 69-10-209(b)(2) the Director of the Tennessee Wildlife Resources Agency, in concurrence with the Tennessee Wildlife Resources Commission, hereby proclaims the temporary suspension of Rule 1660-2-7-.05 (1) (a) (j) Percy Priest Lake. The temporary suspension is granted in association with a TWRA marine permit issued to Elm Hill Marina for a dealer show to be held in the Elm Hill public use area located on the west bank of the reservoir at approximately river mile 9.4 to 9.9. The no-wake rule suspension is granted only to the participants and officials of the Bombardier/Sea-Doo dealers on September 14th- September 19th, 2006, from the hours of 8:00 AM on September 14th through September 19th at 5:00 PM. Measures are being taken to assure the public health, safety and welfare, and the aquatic habitat are reasonably protected and that adequate public notice is given.

Proclamation No. 06-21 received and recorded this 29th day of August, 2006, to become effective the 24th day of August, 2006. Such rule shall be published at least one (1) time in newspapers whose circulation generally covers the areas affected by the rule. Said publication is required to be at least fifteen (15) days before the terms of the rule will become effective. (08-42-06)



CERTIFICATE OF APPROVAL

As provided by T.C.A., Title 4, Chapter 5, I hereby certify that to the best of my knowledge, this issue of the Tennessee Administrative Register contains all documents required to be published that were filed with the Department of State in the period beginning August 1, 2006 and ending August 31, 2006.

A handwritten signature in black ink that reads "Riley C. Darnell". The signature is written in a cursive style with a large initial "R".

RILEY C. DARNELL
Secretary of State