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TENNESSEE ADMINISTRATIVE REGISTER



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RILEY C. DARNELL
Secretary of State

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

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PREFACE

The Tennessee Administrative Register (T.A.R) is an official publication of the Tennessee Department of State. The *T.A.R.* is compiled and published monthly by the Department of State pursuant to *Tennessee Code Annotated, Title 4, Chapter 5*. The *T.A.R.* contains in their entirety or in summary form the following: (1) various announcements (e.g. the maximum effective rate of interest on home loans as set by the Department of 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.

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ANNOUNCEMENTS

DEPARTMENT OF FINANCIAL INSTITUTIONS – 0180

ANNOUNCEMENT OF FORMULA RATE OF INTEREST

Pursuant to the provisions of Chapter 464, Public Acts of 1983, the Commissioner of Financial Institutions hereby announces that the formula rate of interest is 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 November 2006 is 8.81 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 4.81 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
09-01-06	Sept 8, 2006	1200 Health Board for Licensing Health Care Facilities	Rulemaking Hearing Rules	Amendments	<i>Chapter 1200-8-11 Standards for Homes for the Aged</i> 1200-8-11-.01 Definitions 1200-8-11-.02 Licensing Procedures 1200-8-11-.07 Building Standards 1200-8-11-.08 Life Safety 1200-8-11-.12 Policies and Procedures for Health Care Decision-Making for Incompetent Residents	Ernest Sykes, Jr. Health OGC 26th Fl TN Twr 212 8th Ave N Nashville TN 37247-0120 615-532-7156	Nov 22, 2006
09-02-06	Sept 11, 2001	0250 Children's Services Child Protective Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 0250-7-9 Classification and Review of Reports of Child Abuse/Neglect and Due Process Procedures For Release of Child Abuse/Neglect Records</i> 0250-7-9-.01 Definitions 0250-7-9-.02 Scope of Rules 0250-7-9-.03 Prohibited Releases 0250-7-9-.04 When Rights Under this Chapter Attach 0250-7-9-.05 Standard and Criteria for Review of Classification of Reports of Child Abuse/Neglect as "Indicated" 0250-7-9-.06 Right to Notice and Opportunity for Formal File Review 0250-7-9-.07 Alleged Perpetrators with Current Access to Children; Emergency Notification 0250-7-9-.08 Right to Notice and Opportunity for Administrative Hearing 0250-7-9-.09 Stay of Administrative Proceedings 0250-7-9-.10 Conduct of Administrative Hearing 0250-7-9-.11 Evidence; Standard of Proof at the Administrative Hearing	Stacy Miller DCS Central Legal Bldg Cordell Hull Bldg 436 6th Ave N 7th fl Nashville TN 37243 615-741-7236	Nov 25, 2006

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SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-03-06	Sept 11, 2006	1370 Communications Disorders and Sciences	Rulemaking Hearing Rules	Amendments	<i>Chapter 1370-1</i> <i>Rules for Speech Pathology and Audiology</i> 1370-1-.01 Definitions 1370-1-.03 Necessity of Licensure or Registration 1370-1-.05 Procedures for Licensure 1370-1-.06 Fees 1370-1-.08 Examinations 1370-1-.09 Renewal of License 1370-1-.10 Clinical Fellowships and Supervision 1370-1-.11 Retirement and Reactivation of License 1370-1-.12 Continuing Education 1370-1-.13 Unprofessional and Unethical Conduct. 1370-1-.14 Speech Language Pathologist Assistants and Supervision 1370-1-.15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas 1370-1-.16 Display/Replacement of License or Registration 1370-1-.17 Change of Address and/or Name 1370-1-.19 Board Meetings, Officers, Consultants, and Declaratory Orders 1370-1-.20 Advertising	Mary J. Presley Health OGC 220 Athens Way Suite 210, Plaza I, MetroCenter Nashville TN 37243 (615) 741-1611	Nov 25, 2006
09-04-06	Sept 12, 2006	1175 Private Investigation and Polygraph Commission	Rulemaking Hearing Rules	Amendments	<i>Chapter 1175-1</i> <i>Private Investigation Commission</i> 1175-1-.03 Finger Printing 1175-1-.11 License Fees <i>Chapter 1175-2</i> <i>Continuing Professional Education</i> 1175-2-.02 Purpose 1175-2-.03 Qualifying Programs 1175-2-.09 Reactivation of Retired Licenses	Stacey L. Grooms Reg Bds OLC 500 J Robertson Pkwy Davy Crockett Twr 12th Fl Nashville TN 37243 (615) 741-3072	Nov 26, 2006

ANNOUNCEMENTS

SEQ. NO.	DATE FILED	DEPARTMENT AND DIVISION	TYPE OF FILING	DESCRIPTION	RULE NUMBER AND RULE TITLE	LEGAL CONTACT	EFFECTIVE DATE
09-07-06	Sept 18, 2006	0250 Children's Services	Rulemaking Hearing Rules	New Rules	<i>Chapter 0250-6-1 Access To Public Records Of The Department Of Children's Services</i> 0250-6-1-.01 Purpose and Scope 0250-6-1-.02 Definitions 0250-6-1-.03 Requests for Access to Records 0250-6-1-.04 Requests for Reproduction of Records 0250-6-1-.05 Fees and Costs for Reproduction of Records 0250-6-1-.06 Payment for Records 0250-6-1-.07 Waiver of Fees	Stacy Miller DCS Legal Office Cordell Bldg 436 6th Ave N 7th Fl Nashville TN 37243 615-741-7236	Dec 3, 2006
09-15-06	Sept 29, 2006	0080 Agriculture Regulatory Services Division	Proposed Rules	New Rules	<i>Chapter 0080-4-11 Regulations For Establishments Utilizing Domestic Kitchen Facilities For Bakery and Other Non-Potentially Hazardous Foods Intended For Sale</i> 0080-4-11-.01 Purpose 0080-4-11-.02 Definitions 0080-4-11-.03 Limitations of Sale 0080-4-11-.04 Permit Requirements 0080-4-11-.05 General Provisions 0080-4-11-.06 Facility Requirements 0080-4-11-.07 Labeling of Products 0080-4-11-.08 Exemptions	Phyllis Childs General Counsel Department of Agriculture P. O. Box 40627 Nashville, TN 37204 615-837-5280	Jan 27, 2006
09-16-06	Sept 29, 2006	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment New Rule	<i>Chapter 1660-1-28 Rules and Regulations Governing Licenses, Permits and Fees</i> 1660-1-28-.04 Miscellaneous Licenses, Permits and Fees 1660-1-28-.05 Apprentice Hunting License - Eligibility and Conditions	Sheryl Holtam, Attorney TWRA P.O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 13, 2006
09-18-06	Sept 29, 2006	1660 Wildlife Resources Agency	Rulemaking Hearing Rules	Amendment	<i>Chapter 1660-1-8 Rules and Regulations of Hunts</i> 1660-1-8-.03 Permit Requirements - Wildlife Management Areas, Refuges and Other Agency Controlled Lands 1660-1-8-.05 Permit Applications and Drawings	Sheryl Holtam, Attorney TWRA P.O. Box 40747 Nashville, TN 37204 (615) 781-6606	Dec 13, 2006

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.

ANNOUNCEMENTS

TENNESSEE WILDLIFE RESOURCES AGENCY - 1660

Mr. Richard Arnold, Director of Publications
Office of the Secretary of State of Tennessee
312 8th Avenue North
8th Floor, Snodgrass Tower
Nashville, TN 37243

Dear Richard:

Effective November 1, 2006, the State of Tennessee, Wildlife Resources Agency (TWRA) will become the 24th member of the Wildlife Violator Compact. TWRA's application for and acceptance letter into the Compact, along with the Compact By-laws and Operations Manual are enclosed for filing with your office. These documents may also be accessed on TWRA's web site at <http://www.state.tn.us/twra/wvcompact.html>.

Kindest regards,

Sheryl D. Holtam
Attorney

EMERGENCY RULES

EMERGENCY RULES NOW IN EFFECT

For text of emergency rules filed prior to September, 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/emer_index.htm

- 0080 - Department of Agriculture - Division of Regulatory Services - Emergency rules dealing with the protection of the small ruminant industry from the threat of Scrapie - chapter 0080-2-1 Health Requirements for Admission and Transportation of Livestock and Poultry, September 2006 T.A.R., Volume 32, number 10. - Filed August 30, 2006; effective through February 11, 2007. (08-43-06)

PROPOSED RULES

DEPARTMENT OF AGRICULTURE - 0080 REGULATORY SERVICES DIVISION

CHAPTER 0080-4-11 REGULATIONS FOR ESTABLISHMENTS UTILIZING DOMESTIC KITCHEN FACILITIES FOR BAKERY AND OTHER NON-POTENTIALLY HAZARDOUS FOODS INTENDED FOR SALE

Presented herein are proposed rules of the Regulatory Services Division, Department of Agriculture submitted pursuant to T.C.A. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Regulatory Services Division, 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 rules are published. Such petition to be effective must be filed with the Department of Agriculture, Legal Services, P.O. Box 40627, Nashville, TN 37204, 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 rules, or submitted by a municipality which will be affected by the rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed rules, contact: Jimmy Hopper, Director, Regulatory Services Division, Department of Agriculture, Ellington Agricultural Center, 615-837-5150.

The text of the proposed new rules is as follows:

NEW RULES

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0080-4-11-.01	Purpose
0800-4-11-.02	Definitions
0080-4-11-.03	Limitations of Sale
0080-4-11-.04	Permit Requirements
0080-4-11-.05	General Provisions
0080-4-11-.06	Facility Requirements
0080-4-11-.07	Labeling of Products
0080-4-11-.08	Exemptions

0080-4-11-.01 PURPOSE. The purpose of these rules is to allow individuals using domestic kitchens to prepare, manufacture and sell non-potentially hazardous foods to the public, while ensuring that the public health is protected by compliance with these rules and inspections by the Department of Agriculture.

Authority: T.C.A. § 53-1-207.

PROPOSED RULES

0080-4-11-.02 DEFINITIONS.

- (1) "Domestic Kitchen" is a home based kitchen that meets the established requirements herein in order to process non-potentially hazardous foods for sale to the general public.
- (2) "Non-potentially hazardous foods" are jam, jellies, candy and baked goods that do not meet the definition of potentially hazardous foods.
- (3) "Potentially hazardous food" are those foods which consist of meat, poultry, liquid eggs and partially cooked egg products, fish, milk and milk products, shellfish, partially cooked bakery products and/or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms when stored at temperatures in excess of 45 degrees F, if a cold food or below 140 degrees F, if a hot food. Also included as potentially hazardous food, are low acid canned foods (vegetables, fish, meat, etc.) and acidified foods (pickled vegetables, fish, meat, eggs, etc.).
- (4) "Unit of sale" is the form of packaging in which the product is normally offered for sale to the consumer (e.g., 1 loaf of bread, 1 dozen cookies, 1 pie [or piece thereof, as applicable], 1 container of jelly, etc.)

Authority: T.C.A. § 53-1-207.

0080-4-11-.03 LIMITATIONS OF SALE. A domestic kitchen shall not exceed 100 units of sale per week.

Authority: T.C.A. § 53-1-207.

0080-4-11-.04 PERMIT REQUIREMENTS.

- (1) All facilities in which foods are manufactured, processed, packed or held for introduction into commerce must obtain and maintain a current license (known as a "Regulatory Services Permit") from the Tennessee Department of Agriculture, Regulatory Services, Food and Dairy Section in accordance with T.C.A. § 53-1-208. Compliance with all other business license, permit and zoning requirements is the responsibility of the applicant.
- (2) All domestic kitchens shall be available for inspection by the Tennessee Department of Agriculture between the week-day hours of 7:00 a.m. to 5:00 p.m., and the department shall, if it deems it advisable or necessary, inspect such premises on Saturdays, holidays or other times foods are being processed, prepared, packaged or handled.
- (3) An individual who wants to process non-potentially hazardous foods in a domestic kitchen shall have adequate knowledge of safe food handling practices and shall have successfully completed the Tennessee Food Safety Certification Course presented by the University of Tennessee Department of Food Science and Technology or equivalent as determined by the Tennessee Department of Agriculture.

Authority: T.C.A. § 53-1-207 and § 53-1-208.

PROPOSED RULES

0080-4-11-.05 GENERAL PROVISIONS.

- (1) A food-processing establishment in an area that is part of a domestic kitchen shall comply with all provisions of this policy.
 - (a) All domestic kitchen doors, if doors are provided, openings to other rooms of the dwelling or structure, such as bathrooms and all openings to the outside shall be kept closed during the processing, preparing, packaging or handling of commercial foods. Windows, which are open when processing, shall be effectively screened to prevent the entrance of insects.
 - (b) No person, other than the food establishment licensee or someone under the direct supervision of such licensee, shall directly engage in the processing, preparing, packaging or handling of commercial foods and no other person shall be allowed in the domestic kitchen during such periods of operation.
 - (c) No pets shall be allowed at any time in the dwelling or structure in which the domestic kitchen is located.
 - (d) No processing, preparing, packaging or handling of foods for sale shall be carried on in a domestic kitchen while other domestic activities are being carried on in such domestic kitchen, including, but not limited to; family meal preparation, serving, eating, dishwashing, clothes washing and ironing, cleaning of floors, walls, cabinets and appliances or when entertaining guests.
 - (e) Use of tobacco products is prohibited in the dwelling or structure housing the domestic kitchen during preparing, processing, packaging or handling of commercial foods.
 - (f) Employee Health – No food handler shall work in food processing while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease. No food handler shall work in food processing while affected with a boil, an infected wound or an acute respiratory infection.
 - (g) Hair restraints and clean outer garments must be worn by all persons in the domestic kitchen during processing, preparing, packaging, or handling of foods. The use of loose or dangling jewelry, nail polish and chewing gum is prohibited by persons in the domestic kitchen during processing, preparing, packaging, or handling of commercial foods.

Authority: T.C.A. § 53-1-207.

0080-4-11-.06 FACILITY REQUIREMENTS.

- (1) Each domestic kitchen shall include and be provided with the following:
 - (a) An adequate safe water supply derived from:
 1. a municipal service or

PROPOSED RULES

2. a private water supply deemed to be safe as determined by inspection and annual microbiological analysis for coliform conducted at a laboratory deemed acceptable by the Tennessee Department of Agriculture. Current documentation of the laboratory analysis must be kept at the facility for review at the time of inspection.
 - (b) Storage space for ingredients, including partially filled ingredient containers that have been properly sealed and labeled, finished product containers and labels for commercial foods that provide effective separation from household cleaning materials, other chemicals or toxic substances.
 - (c) A separate refrigerated unit equipped with an accurate thermometer located in the same structure as the domestic kitchen for storage of perishable products or ingredients utilized in the preparing, processing, or handling of commercial foods.
 - (d) Adequate facilities including a sink for the cleaning and sanitization of all utensils and equipment and adequate space for the draining or air-drying of all utensils and equipment that are or may become food product contact surfaces.
 - (e) Adequate hand washing facilities separate from the utensil cleaning facilities, which include hot and cold water, single service paper towels and hand soap. Properly supplied hand washing facilities provided in toilet facilities located within the structure containing the domestic kitchen may suffice for this provision. Hands shall be washed and dried:
 1. after restroom use, and
 2. immediately prior to food preparation, processing and/or packaging as often thereafter as is necessary to properly protect the food.
 - (f) A properly functioning toilet facility supplied with single service paper towels, hand soap, toilet tissue and a covered waste receptacle.
 - (g) Utensils and equipment that are made of smooth, nonabsorbent, corrosion-resistant, non-toxic material so constructed as to be easily cleaned.
 - (h) Food packaging materials, containers and closures that are safe for their intended use. Written verification relative to food safety from the manufacturer of the packaging materials, containers or closures may be required.
 - (i) Shielded or shatter resistant lighting in the processing area.
- (2) Operation of the facility shall be conducted in such a manner as to protect the food from contamination during preparing, processing, packaging, storage and distribution. Where applicable, containers may require sanitization prior to use. Suitable dispensing/measuring utensils stored in a manner so as to preclude contamination shall be used to avoid unnecessary manual contact with food.
 - (3) Medical supplies or equipment shall not be stored or allowed in the domestic kitchen unless stored in such a manner that does not permit contamination of food or food product contact surfaces.
 - (4) There shall be no evidence of insect or rodent activity. Chemical pest control application shall be conducted in a manner consistent with manufacturer's directions so as to not contaminate food products or food product contact surfaces. A person shall not apply a pesticide within a dwelling or structure used for the preparation or serving of food except

PROPOSED RULES

under the direct supervision of a person licensed to apply pesticides in accordance with General Provision 62-21-124(a)(4), Chapter 21 of the Tennessee Application of Pesticides Act of 1978.

- (5) Waste, including food waste, shall be disposed of in a manner that does not attract rodents, insects or birds.

Authority: *T.C.A. § 53-1-207.*

0080-4-11-.07 LABELING OF PRODUCTS.

- (1) All food items packaged at the facility must be properly labeled prior to sale. The following, at a minimum, must be present on all food items:
 - (a) The name, street address, city, state and zip code of the manufacturer, packer or distributor.
 - (b) An accurate statement of the net amount of food in the package.
 - (c) The common or usual name of the food.
 - (d) The ingredients in the food.
 - (e) Lot dates or numbers shall be evident on each package or container of food.
- (2) All labeling shall comply with the applicable provisions of the Code of Federal Regulations, Chapter 21, Part 101 - Food Labeling. The licensed facility may apply for a Small Business Nutritional Labeling Exemption, if applicable.
- (3) Lot dates or numbers shall be evident on each package or container of food for traceability purposes in the event an issue occurs which may require a market withdrawal of the food. A current distribution list including quantities sold may also be of assistance should an incident occur.

Authority: *T.C.A. § 53-1-105 and § 53-1-207.*

0080-4-11-.08 EXEMPTIONS. Establishments that process non-potentially hazardous foods prepared solely with the intent to sale at a single day public event no more that six times per year on non-sequential days on behalf of a non-profit institution or charity are exempt from the requirements of these rules.

Authority: *T.C.A. § 53-1-207.*

The proposed rules set out herein were properly filed in the Department of State on the 28th day of September, 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 27th day of January, 2007. (09-15-06)

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

- 0580 - Ethics Commission - Public Necessity Rules regulating lobbyists and employers of lobbyists, chapter 0580-1 Rules Pertaining to Lobbyists and Employers of Lobbyist, 9 T.A.R. (September 2006) - Filed August 9, 2006; effective through January 21, 2007. (08-08-06)
- 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 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)
- 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)
- 1680 - Department of Transportation - Environmental Division - Public Necessity Rules establishing requirements that the States must meet in order to assure that there is effective control of outdoor advertising, chapter 1680-2-3 Control of Outdoor Advertising, 9 T.A.R. (September 2006) Filed August 1, 2006; effective October 1, 2006 through March 15, 2007. (08-01-06)

RULEMAKING HEARINGS

DEPARTMENT OF COMMERCE AND INSURANCE - 0780 INSURANCE DIVISION

There will be a hearing before the Insurance Division of the Department of Commerce and Insurance ("Division") to consider the promulgation of rules. 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 Conference Room A of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 9:00 a.m. CST on the 16th day of November 2006.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 and (615) 741-6500.

For a copy of this notice of rulemaking hearing contact: Tony Greer, Staff Attorney, Office of Legal Counsel, Department of Commerce and Insurance, Davy Crockett Tower, Twelfth Floor, Nashville, Tennessee 37243, and (615) 741-2199.

CHAPTER 0780-1-80 TENNESSEE VEHICLE PROTECTION PRODUCT ACT REGULATIONS

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0780-1-80-.06	Vehicle Protection Product Warranty Form Requirements
0780-1-80-.07	Record Keeping Requirements
0780-1-80-.08	Procedures for Public Complaints
0780-1-80-.09	Cease and Desist Orders and Penalties

0780-1-80-.01 PURPOSE AND SCOPE.

- (1) The purpose of this Chapter is to set standards to assist the Commissioner of Commerce and Insurance in administering the Vehicle Protection Product Act ("Act"), as provided for in T.C.A. §§ 56-55-113.

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- (2) This Chapter shall not be interpreted to limit the powers granted the Commissioner by any laws or parts of laws of this State, nor shall this chapter be interpreted to supersede any laws or parts of laws of this State.

Authority: T.C.A. § 56-55-113.

0780-1-80-.02 AUTHORITY.

This Chapter is issued pursuant to the authority vested in the Commissioner of Commerce and Insurance of the State of Tennessee pursuant to T.C.A. §§ 56-55-101 through 56-55-115.

Authority: T.C.A. § 56-55-113.

0780-1-80-.03 DEFINITIONS.

- (1) “Administrator” means a third party, other than the warrantor, who is designated by the warrantor to be responsible for the administration of vehicle protection product warranties;
- (2) “Commissioner” means the Commissioner of the Tennessee Department of Commerce and Insurance;
- (3) “Department” means the Tennessee Department of Commerce and Insurance;
- (4) “Incidental costs” means expenses resulting from loss or damage to a vehicle, as specified in the warranty, incurred by the warranty holder, related to the failure of the vehicle protection product to perform as provided in the warranty. “Incidental costs” may include, but not be limited to, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. “Incidental costs” do not include the costs specified in the warranty to repair, replace or provide a refund for a vehicle protection product that fails to perform as provided in the warranty;
- (5) “Person” means any natural or artificial person including, but not limited to, an individual, partnership, association trust or corporation;
- (6) (a) “Vehicle protection product” means a vehicle protection device, system, or service that:
 1. Is installed on or applied to a vehicle;
 2. Is designed to prevent loss or damage to a vehicle from a specific cause; and
 3. Includes a written warranty;(b) “Vehicle protection product” includes, but is not limited to, alarm systems, body part marking products, steering locks, window etch products, pedal and ignition locks, fuel and ignition kill switches, and electronic, radio, and satellite tracking devices;
- (7) “Vehicle protection product warranty” or “warranty” means a written agreement by a warrantor that provides that, if the vehicle protection product fails to prevent loss or damage to

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a vehicle from a specific cause, then the warranty holder shall be paid specified incidental costs by the warrantor as a result of the failure of the vehicle protection product to perform pursuant to the terms of the warranty;

- (8) "Vehicle protection product warrantor" or "warrantor" means a person who is contractually obligated to the warranty holder under the terms of the vehicle protection product warranty agreement. "Warrantor" does not include an authorized insurer;
- (9) "Warranty holder" means the person who purchases a vehicle protection product or who is a permitted transferee; and
- (10) "Warranty reimbursement insurance policy" means a policy of insurance that is issued to the vehicle protection product warrantor to provide reimbursement to the warrantor, or to pay on behalf of the warrantor, all covered contractual obligations incurred by the warrantor under the terms and conditions of the insured vehicle protection product warranties sold by the warrantor.

Authority: T.C.A. §§ 56-55-102 and 56-55-113.

0780-1-80-.04 WARRANTOR FILING REQUIREMENTS.

- (1) The following items are required to be submitted upon the initial registration of any person wishing to register to operate as a warrantor of vehicle protection products, and annually thereafter in order to renew the registration:
 - (a) The information required by T.C.A. § 56-55-104(b). This information shall be submitted on a form created by the Commissioner;
 - (b) Copies of any warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State. Such policies must conform to the requirements found in T.C.A. §§ 56-55-105 and 56-55-106;
 - (c) Two (2) copies of each warranty the registrant proposes to use in this State;
 - (d) An appointment of the Commissioner and the Commissioner's deputies and successors as true and lawful attorneys upon whom any and all lawful process may be served on behalf of the warrantor in connection with any business done by the warrantor under T.C.A. §§ 56-55-101, et seq. Such appointment shall be made on a form created by the Commissioner;
 - (e) A registration fee in the amount of five hundred fifteen dollars (\$515.00); and
 - (f) A self addressed stamped envelope.
- (2) A complete copy of each registration form, including all required exhibits and other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to: Commissioner of the Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The registration form shall be manually signed.

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- (3) Should the registration form submitted upon the initial registration of a warrantor be deficient in any information required by T.C.A. §§ 56-55-105 and 56-55-106 and Paragraphs (1) and (2) of this Rule, the Commissioner shall notify that initial registrant immediately of all such deficiencies. The initial registrant shall have forty-five (45) days from the date the notice was sent by the Commissioner to correct all deficiencies. Should the initial registrant not correct all deficiencies within the forty-five (45) days, the Commissioner shall deem the application abandoned. Any registrant who has abandoned an application must reapply as set forth in Paragraph (1) of this Rule in order to register as a warrantor.
- (4) Should there be any change(s) in a registrant's information prior to the registrant's renewal, the Commissioner must be notified, in writing, within thirty (30) days of such change(s) by personal delivery or mail addressed to: Commissioner of the Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Davy Crockett Tower, Fourth Floor, Nashville, Tennessee 37243, Attention: Vehicle Protection Product Specialist. The written notice shall state any change(s) to the information and what the information stated before the change(s). The written notice shall be manually signed.
- (5) If a registrant fails to properly renew its registration by July 1 of each year, the Commissioner shall give the registrant written notice of the failure to properly register. The registrant shall then have thirty (30) days from the date of the receipt of the notice of the failure to properly register to complete the registration before the registration is canceled. Any registrant with a canceled registration must reapply as set forth in Paragraph (1) of this Rule in order to obtain a new registration.

Authority: T.C.A. §§ 56-55-104, 56-55-112 and 56-55-113.

0780-1-80-.05 USE OF SURPLUS LINES INSURERS.

A warrantor may secure a warranty reimbursement insurance policy or policies which are to cover any vehicle protection product warranties provided in this State from a surplus lines insurer. Such policies must conform to the requirements found in T.C.A. §§ 56-55-105 and 56-55-106, and must be secured through a licensed surplus lines agent who represents a surplus lines insurer that is domiciled in the United States, and eligible under T.C.A. §§ 56-14-101, et seq., to provide such coverage.

Authority: T.C.A. § 56-55-113.

0780-1-80-.06 VEHICLE PROTECTION PRODUCT WARRANTY FORM REQUIREMENTS.

- (1) All vehicle protection product warranty forms required to be submitted under T.C.A. § 56-55-104(b) and rule 0780-1-80-.04 shall contain the language and disclosures required by T.C.A. § 56-55-107, and may not contain any of the language or statements prohibited by T.C.A. § 56-55-109.
- (2) No vehicle protection product warranty shall contain any typeface smaller than twelve (12) point font, and the typeface chosen must be easily readable. All vehicle protection product warranties must be written in English, but may be written in other languages as well, so long as the translation of the warranty is a reasonable translation; any discrepancies in a translated warranty should be read in favor of the purchaser of the warranty.

Authority: T.C.A. §§ 56-55-107, 56-55-109 and 56-55-113.

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0780-1-80-.07 RECORD KEEPING REQUIREMENTS.

Each vehicle protection product warrantor shall maintain its accounts, books and records in the manner outlined in T.C.A. § 56-55-110.

Authority: T.C.A. §§ 56-55-110 and 56-55-113.

0780-1-80-.08 PROCEDURES FOR PUBLIC COMPLAINTS.

- (1) Complaints concerning vehicle protection product warranties and/or the warrantors who provide such warranties shall be handled by the Consumer Insurance Services Section (or successor organizational unit) of the Department's Insurance Division.
- (2) The Consumer Insurance Services Section (or successor organizational unit) shall record and review all complaints received under this Rule, and the process for such review and disposition shall be the same as that for all other complaints submitted to the Consumer Insurance Services Section.

Authority: T.C.A. § 56-55-113.

0780-1-80-.09 CEASE AND DESIST ORDERS AND PENALTIES.

- (1) If the Commissioner determines that any person is violating any section of the Act or any of the provisions of this Chapter, the Commissioner may issue an order directing the warrantor to cease and desist from engaging in those acts, practices or transactions that are found to violate the Act or this Chapter, and may issue an order prohibiting the warrantor from continuing to offer any vehicle protection product in violation of the Act or the provisions of this Chapter.
- (2) The Commissioner may, after notice and a hearing, levy a civil penalty in an amount not to exceed five thousand dollars (\$5,000) against the warrantor of a vehicle protection product or person required to be registered to provide a vehicle protection product, upon a finding that the warrantor or the person required to be registered as a warrantor has violated any provision of the Act or of this Chapter. Each vehicle protection product warranty provided in violation of the Act and/or this Chapter, and/or each day of continued violation shall constitute a separate violation for purposes of determining the possible amount of penalty under this section.

Authority: T.C.A. §§ 56-55-111 and 56-55-113.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of September, 2006. (09-19-06)

RULEMAKING HEARINGS

BOARD OF DENTISTRY - 0460

There will be a hearing before the Tennessee Board of Dentistry to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-5-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the 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 20th day of December, 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

CHAPTER 0460-1 GENERAL RULES

- 0460-1-.01 Definitions
- 0460-1-.03 Board Officers, Consultants, Meetings, Declaratory Orders, and Screening Panels
- 0460-1-.05 Continuing Education and C.P.R.,
- 0460-1-.08 Dental Professional Corporations and Dental Professional Limited Liability Companies

Rule 0460-1-.01, Definitions, is amended by deleting paragraphs (3) and (10) in their entirety and substituting instead the following language, so that as amended, the new paragraphs and (3) and (10) shall read:

- (3) Board Administrative Office - The office of the Director assigned to the Tennessee Board of Dentistry located at 227 French Landing, Suite 300, Heritage Place, MetroCenter, Nashville, TN 37243.
- (10) Licensed Dental Hygienist – An auxiliary employee of a licensed dentist(s) who has been issued a license to engage in clinical procedures primarily concerned with the performance of preventive dental service which does not constitute the practice of dentistry and is performed in accordance with the statutes and rules of the Board, under the direct and/or general supervision and full responsibility of a licensed dentist, pursuant to T.C.A. §§ 63-5-108 and 63-5-115.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-101, 63-5-105, 63-5-108, and 63-5-115.

Rule 0460-1-.03, Board Officers, Consultants, Meetings, Declaratory Orders, and Screening Panels, is amended by deleting part (4) (b) 1. in its entirety and renumbering the remaining parts accordingly,

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and is further amended by adding the following language as new paragraph (11), so that as amended, the new paragraph (11) shall read:

- (11) Stays and Reconsiderations – The Board authorizes the member who chaired the Board 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, 63-1-138, 63-5-105, 63-5-116, and 63-5-124.

Rule 0460-1-.05, Continuing Education and C.P.R., is amended by deleting subparagraph (1) (a) but not its parts, and substituting instead the following language, so that as amended, the new subparagraph (1) (a) but not its parts shall read:

- (1) (a) Beginning January 1, 2003, each licensed dentist must successfully complete forty (40) hours of continuing education in courses approved by the Board during the two (2) calendar years (January 1st of an odd-numbered year through December 31st of the subsequent even-numbered year) that precede the licensure renewal year. At least two (2) hours of the forty (40) hour requirement shall be a course pertaining to chemical dependency education and/or shall be a course designed specifically to address prescribing practices.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-107, and 63-5-117.

Rule 0460-1-.08, Dental Professional Corporations and Dental Professional Limited Liability Companies, is amended by deleting parts (1) (b) 1., (1) (b) 2., (2) (b) 1., and (2) (b) 2. in their entirety and substituting instead the following language, so that as amended, the new parts (1) (b) 1., (1) (b) 2., (2) (b) 1., and (2) (b) 2. shall read:

- (1) (b) 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
- (1) (b) 2. A foreign or domestic general partnership, D.P.C. or Dental Professional Limited Liability Company (D.P.L.L.C.) in which all partners, shareholders, members or holders of financial rights are dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee, or composed of entities which are directly or indirectly owned by such licensed dentists.
- (2) (b) 1. Dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5; and/or
- (2) (b) 2. A foreign or domestic general partnership, D.P.C. or D.P.L.L.C. in which all partners, shareholders, members or holders of financial rights are either dentists licensed pursuant to Tennessee Code Annotated Title 63, Chapter 5 to practice dentistry in Tennessee or composed of entities which are directly or indirectly owned by such licensed dentists.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 48-101-610, 48-101-630, 48-248-401, 48-248-603, 48-249-101, et seq., 63-5-105, 63-5-107, and 63-5-121.

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CHAPTER 0460-2 RULES GOVERNING THE PRACTICE OF DENTISTRY

0460-2-.11 Regulated Areas of Practice

Rule 0460-2-.11, Regulated Areas of Practice, is amended by deleting subparagraph (2) (g) in its entirety and substituting instead the following language, and is further amended by adding the following language as subparagraph (2) (h), so that as amended, the new subparagraphs (2) (g) and (2) (h) shall read:

- (2) (g) Dentists shall only allow licensed or registered auxiliary staff to give/hand medications to a patient and only after the dentist has verified that the medication about to be given is the correct medication and correct dosage prescribed. Under no circumstances shall the dentist allow auxiliary staff to place medications directly in the mouth of a patient or on the patient such as actisite, nitrous oxide, any other medicated dental material, etc., with the exception of a topical anesthetic pursuant to T.C.A. §§ 63-5-108 (b) (12) and/or (d) (3), and any other procedure authorized by Rule 0460-3-.09 (1).
- (2) (h) Nothing in these rules shall be interpreted to interfere with the ability of properly credentialed dentists who practice in the hospital setting to reinstate, continue, and/or rewrite for their patients all prescriptions which are medically or dentally advisable or justified for such dental procedure(s) or treatment(s), including prescriptions for ancillary medical conditions, so long as:
 - 1. such medical prescriptions are rational to the practice of dentistry; and
 - 2. the treating dentist only orders such medical prescriptions in consultation with the patient's treating physician; and
 - 3. the treating dentist only re-orders such medical prescriptions which already have been ordered by the patient's treating physician and which prescription orders would remain in effect for the patient but for the JCAHO standard against automatic reinstatement in the hospital setting.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-107, 63-5-108, and 63-5-122.

CHAPTER 0460-3 RULES GOVERNING THE PRACTICE OF DENTAL HYGIENISTS

0460-3-.09 Scope of Practice

Rule 0460-3-.09, Scope of Practice, is amended by deleting subparagraphs (6) (e) and (6) (k) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (6) (e) and (6) (k) shall read:

- (6) (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108 or Rule 0460-3-.09 (1);
- (6) (k) Utilization of laser equipment and technology in the course of the performance of their duties unless specifically authorized by T.C.A. § 63-5-108 or Rule 0460-3-.09 (1). Only dentists licensed by the Tennessee Board of Dentistry shall be authorized to perform procedures involving laser technology.

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

CHAPTER 0460-4 RULES GOVERNING THE PRACTICE OF DENTAL ASSISTANTS

0460-4-.04 Coronal Polishing Certification
0460-4-.08 Scope of Practice

Rule 0460-4-.04, Coronal Polishing Certification, is amended by deleting the introductory sentence and subparagraph (4) (a) in their entirety and substituting instead the following language, so that as amended, the new introductory sentence and the new subparagraph (4) (a) shall read:

0460-4-.04 Coronal Polishing Certification. Dental assistants, who pursuant to this rule and T.C.A. § 63-5-108 (d), receive certification to perform coronal polishing may do so under the restrictions contained in this rule.

- (4) (a) The clinical portion of the examination shall be administered by a member of the Board or the Dental Assisting National Board, Inc. (DANB) or another meaningfully credentialed testing agency designated in advance by the Board and shall be conducted in an educational institution. The written portion of the examination can be administered by the testing agency, a Board member, or a Board representative. By adopting such examinations, the Board deems fulfilled the requirements set forth in T.C.A. § 63-5-108 (d) that the clinical and didactic examination be administered by the Board. The Board interprets “administered by the Board” to mean “adopted by the Board” for purposes of this section.

Authority: T.C.A. § 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-111.

Rule 0460-4-.08, Scope of Practice, is amended by deleting subparagraphs (4) (d), (4) (e), and (4) (m) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (4) (d), (4) (e), and (4) (m) shall read:

- (4) (d) Issuance of prescription medications or medications not authorized by T.C.A. § 63-5-108 (c) or Rule 0460-4-.08 (3), or work authorizations;
- (4) (e) Performance of direct pulp capping, pulpotomy, and other endodontic procedures not authorized by T.C.A. § 63-5-108(c) or Rule 0460-4-.08 (3);
- (4) (m) Utilization of laser equipment and technology in the course of the performance of their duties unless specifically authorized by T.C.A. § 63-5-108 (c) or Rule 0460-4-.08 (3). Only dentists licensed by the Tennessee Board of Dentistry shall be authorized to perform procedures involving laser technology.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-5-105, 63-5-108, and 63-5-115.

The notice of rulemaking set out herein was properly filed in the Department of State on the 22nd day of September, 2006. (09-06-06)

RULEMAKING HEARINGS

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 amendments to the Tennessee Air Pollution Control Regulations, and State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20th day of November, 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 Monday, November 20, 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 November 20, 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. Jeff Cales at (931) 432-7621. 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 CHANGES

The proposed revisions to Rules 1200-3-4-.02 Definitions and 1200-3-4-.04 Exceptions To Prohibition include updated definitions, and clarifications of existing exceptions necessary to effectively regulate open burning statewide. The proposal also deletes non-applicable references and a non-applicable definition. The proposal includes a waiver to the express prohibition on open burning of plastics and rubber, so as to accommodate incidental plastic or rubber containers of controlled substances and drugs seized as contraband. The proposal also includes a waiver to accommodate plastic or rubber materials that are explosives-contaminated, and similar wastes, that are unsafe for other means of disposal.

CHAPTER 1200-3-4 OPEN BURNING

AMENDMENTS

Chapter 1200-3-4 is amended in two (2) respects as follows:

1. Rule 1200-3-4-.02 Definitions is amended by substituting a new rule .02 DEFINITIONS in place of the current rule, so that as revised, the new rule .02 DEFINITIONS shall read as follows:

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1200-3-4-.02 DEFINITIONS.

- (1) As used in this chapter, all terms not defined herein shall have the meaning given them in chapter 1200-3-2.
 - (a) Repealed
 - (b) "Air Pollution Emergency Episode" is defined as air pollution alerts, warnings, or emergencies declared by the Tennessee Division of Air Pollution Control during adverse air dispersion conditions that may result in harm to public health or welfare.
 - (c) "Natural Disaster" is defined as any event commonly referred to as an "Act of God" and includes but is not limited to the following weather related or naturally occurring categories of events: tornadoes, hail and wind storms, snow or ice storms, flooding, and earthquakes.
 - (d) "Open Burning" is the burning of any matter under such conditions that products of combustion are emitted directly into the open atmosphere without passing directly through a stack. Open burning includes, but is not limited to, fires located or burning in a pile on the ground, a barrel, a fire pit, or other semi-enclosure. The use of an air curtain destructor or air curtain incinerator is considered incineration subject to the permitting requirements of Rule 1200-3-9, and is explicitly not considered open burning.
 - (e) "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, an agency, authority, commission, or department of the United States government, or of the State of Tennessee government; or any other legal entity, or their legal representative, agent, or assigns.
 - (f) Repealed.
 - (g) "Wood Waste" is defined as any product which has not lost its basic character as wood, such as bark, sawdust, chips and chemically untreated lumber whose "disposition" by open burning is to solely get rid of or destroy. Plant life of a herbaceous nature, such as leaves, whether attached, fallen, and/or collected, evergreen needles, and grasses, are not considered "wood waste". Additionally, manufactured lumber products, such as plywood, fiberboard, particleboard, and paneling, are not considered "wood waste". Painted or artificially stained wood is not considered "wood waste".

Authority: T.C.A. §§ 4-5-202, 68-201-101 et seq., and 68-25-105

2. Rule 1200-3-4-.04 Exceptions To Prohibition is amended by substituting a new rule .04 Exceptions To Prohibition in place of the current rule, so that as revised, the new rule .04 Exceptions To Prohibition shall read as follows:

1200-3-4-.04 EXCEPTIONS TO PROHIBITION.

- (1) Open burning, as listed below, may be conducted subject to specified limitations. This grant of exception shall in no way relieve the person responsible for such burning from the consequences, damages, injuries, or claims resulting from such burning.
 - (a) Repealed.

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- (b) Fires used for cooking of food or for ceremonial, recreational or comfort-heating purposes, including barbecues, campfires, and outdoor fireplaces.
- (c) Fires set by or at the direction of responsible fire control persons solely for training purposes: such as for fire source training at fire academies or for local fire department training. However, routine demolition of structures via supervised open burning by responsible fire control persons is not considered fire training. Additionally, the person responsible for such burning, unless conducted at a recognized fire training academy, must certify compliance with the following requirements by written statement. The certification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least ten (10) working days prior to commencing the burn:
 - 1. The open burning is being conducted solely for fire training purposes.
 - 2. All vinyl siding, carpet, vinyl flooring, asphalt roofing materials, and any other materials expressly prohibited in rule 1200-3-4-.03, have been removed. However, the provisions of 1200-3-4-.03(4) as it pertains solely to “other rubber products” and “other plastics” are waived for incidental plastic or rubber materials which are an integral part of a structure used for fire training, such as plastic plumbing, fixtures, and conduit; electrical wiring insulation, connections, switches, and fixtures; interior trim; glues and resins in manufactured wood products; and vinyl window and door frames. Sheathing, decking, roofing, exterior siding and trim, and structural load-bearing members whose composition is primarily rubber or plastics are not considered incidental.
 - 3. All regulated asbestos containing materials have been removed in accordance with rule 1200-3-11-.02.
 - 4. A traffic hazard will not be caused by the air contaminants generated by the fire training.
- (d) Fires consisting solely of vegetation grown on the property of the burn site. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, or other ignition devices approved by the Technical Secretary.
- (e) Fires disposing of “wood waste” solely for the disposition of such wood waste as provided in T.C.A. §68-201-115(c). Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
- (f) Fires solely for the burning of bodies of dead animals, including poultry, where no other safe and/or practical disposal method exists. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils, vegetation grown on the property of the burn site, and wood waste.
- (g) Smokeless flares or safety flares for the combustion of waste gases, provided other remaining applicable conditions of these regulations are met.
- (h) Such other open burning as may be approved by the Tennessee Air Pollution Control Board where there is no other practical, safe, and/or lawful method of disposal. Documentation demonstrating why the general open burning regulations cannot be met must be submitted.

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- (i) Fires set at the direction of law enforcement agencies or courts solely for the purpose of destruction of controlled substances and legend drugs seized as contraband. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils. The provisions of 1200-3-4-.03(4) as it pertains solely to “other rubber products” and “other plastics” are waived for incidental plastic or rubber containers of said contraband.
- (j) Fires consisting solely of vegetation; manufactured lumber products not chemically treated to prevent insect or rot damage, such as plywood, fiberboard, and paneling; and uncoated paper and uncoated cardboard; subject to the following conditions:
 - 1. The site of such burning is not nearer than one-half mile to an airport, hospital, nursing home, school, Federal or State highway, national reservation, national or state park, wildlife area, national or state forest, and/or occupied structures except such structures as may be located on the same property as the burning site.
 - 2. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils.
 - 3. The person responsible for such burning must certify compliance with the distance requirements by written statement. The certification must include the types and amounts of materials projected to be burned, and must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least ten (10) working days prior to commencing the burn.
- (k) Fires consisting solely of non-radioactive, explosive, shock sensitive, chemically unstable, or highly reactive wastes, packaging, or contaminated or potentially contaminated combustible materials. Priming materials used to facilitate such burning shall be limited to #1 or #2 grade fuel oils. The provisions of 1200-3-4-.03(4) as it pertains solely to “other rubber products” and “other plastics” are waived for this exception. Open burning conducted under this exception is only allowed where no other safe means of disposal exists.
- (l) Fires consisting solely of materials resulting from a natural disaster, and when conducted in conformity with the following conditions:
 - 1. Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. Input from Emergency Management personnel may be requested in determining qualification with this criterion. The provisions of 1200-3-4-.03(4) pertaining to structural and household materials may be waived if the persons seeking to open burn under this provision make a reasonable effort to remove all expressly prohibited material from the structural remains before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
 - 2. If a governmental collective burn site for disposing of structural and household materials and vegetation damaged by a natural disaster is planned, the person responsible for such burning must notify the Division of Air Pollution Control of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.

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3. A traffic hazard will not be caused by the air contaminants generated by the fire.
 4. No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 5. Open burning conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.
- (2) The Technical Secretary reserves the right to require a person to cease or limit open burning if emissions from the fires are deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.
- (3) Any exception to the open burning prohibition granted by this Chapter does not relieve any person of the responsibility to obtain a permit required by any other agency, or of complying with other applicable requirements, ordinances, or restrictions.
- (4) Failure to adhere to any applicable provision or condition of an exception to the open burning prohibition shall be construed as a violation of this Chapter and is subject to applicable provisions of the rules and statutes of the Tennessee Department of Environment and Conservation, Division of Air Pollution Control and such corrective/punitive measures that may be deemed appropriate by the Technical Secretary of the Tennessee Air Pollution Control Board.

Authority: *T.C.A. §§4-5-202, 68-201-101 et seq., and 68-25-105.*

This notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2006. (09-12-06)

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 amendments to the Tennessee Air Pollution Control Regulations, and State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20th day of November, 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 Monday, November 20, 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 November 20, 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 these rule changes, you may contact Ms. Lacey Hardin or Mr. Malcolm Butler 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 Ms. Lacey Hardin or Mr. Malcolm Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0554.

SUMMARY AND SUBSTANCE OF PROPOSED RULES

The proposed revisions to Rules 1200-3-9-.01 Construction Permits and 1200-3-9-.02 Operating Permits are amended by correcting typographical errors and removing the Clean Unit and Pollution Control Project provisions from the permitting requirements for major New Source Review. These provisions were vacated from the federal rules by the D.C. Circuit Court June 24, 2005.

CHAPTER 1200-3-9 CONSTRUCTION AND OPERATING PERMITS

AMENDMENTS

Chapter 1200-3-9 is amended in the following thirty (30) respects:

1. Part 11. of subparagraph (a) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by deleting the words "at a Clean Unit or" so that, as amended, the part shall read:

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11. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a plantwide applicability limitation [PAL]) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in items (b)38.(i)(I) through (III) of this paragraph for calculating projected actual emissions.
2. Item (VIII) of subpart (i) of part 2. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(VIII)Reserved.
3. Item (III) of subpart (iii) of part 4. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(III) Reserved.
4. Item (IV) of subpart (vi) of part 4. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(IV) Reserved.
5. Part 35. of subparagraph (b) of paragraph (4) of rule 1200-3-9-. Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

35. Reserved.
6. Part 39. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

39. Reserved.
7. Sub-item III. of item (III) of subpart (i) of part 45. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

III. Use of alternate 2-year baselines for the pollutants described in sub-item II above would result in the construction of the new source or modification not being subject to major new source review.
8. Sub-part (v) of part 4. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

(v) Reserved.

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9. Sub-part (vi) of part 4. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

(vi) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in sub-parts (c)4.(iii) through (v) of this paragraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in part (b)24. of this paragraph). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in sub-part (c)4.(iii) of this paragraph for the existing unit and determined using the method specified in sub-part (c)4.(iv) of this paragraph for the new unit

10. Part 6. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

6. Reserved.

11. Subparagraph (p) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(p) Reserved.

12. Subparagraph (q) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(q) Reserved.

13. Subparagraph (r) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(r) Reserved.

14. Sub-item VIII. of item (III) of subpart (v) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

VIII. Reserved.

15. Sub-item III. of item (III) of subpart (vi) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

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III. Reserved.

16. Sub-item V. of item (V) of subpart (vi) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

V. Reserved.

17. Sub-part (xxxvii)of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

(xxxvii) Reserved.

18. Sub-part (xli)of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

(xli) Reserved.

19. Section C of subitem IV of item (II) of subpart (xlvii) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present section a different section so that, as amended, the resulting section shall read:

C Use of alternate 2-year baselines for the pollutants described in section B above would result in the construction of the new source or modification not being subject to major new source review.

20. Item (IX) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(IX) Reserved.

21. Item (X) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(X) Reserved.

22. Sub-part (xvi) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subpart a different subpart so that, as amended, the resulting sub-part shall read:

(xvi) Reserved.

23. Sub-part (xvii) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

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(xvii) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in sub-parts 2.(xiv) through (xvi) of this subparagraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in sub-part 1.(x) of this subparagraph). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in sub-part 2.(xiv) of this subparagraph for the existing unit and using the method specified in sub-part 2.(xv) of this subparagraph for the new unit.

24. Sub-part (xix) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subpart a different subpart so that, as amended, the resulting sub-part shall read:

(xix) Reserved.

25. Part 5. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

5. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in sub-items 1.(xl)(I) through III of this subparagraph for calculating projected actual emissions.

26. Part 7. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

7. Reserved.

27. Part 8. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

8. Reserved.

28. Part 9. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

9. Reserved.

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

29. Paragraph (1) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present paragraph a different paragraph so that, as amended, the resulting paragraph shall read:

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- (1) Any person planning to operate an air contaminant source constructed or modified in accordance with a construction permit issued by the Technical Secretary in rule 1200-3-9-.01 of this chapter shall apply for and receive an operating permit from the Technical Secretary after initial start-up of this said air contaminant source. Ninety (90) days shall be allowed for this, provided paragraph (3) of this rule is complied with. This time period is extended from ninety (90) to one hundred twenty (120) days if stack sampling has been required as a condition on the construction permit, which is further extended to sixty (60) days after the stack sampling report is required on the construction if a certain time is specified, provided the stack sampling report is filed with the Division within sixty (60) days of initial start-up or the time specified on the construction permit and that paragraph (3) of this rule is complied with.

30. Part 6. of subparagraph (f) of paragraph (11) of rule 1200-3-9-.02 Operating Permits is amended by substituting for the word "Case" the word "Cause" so that, as amended, the part shall read:

6. Reopening for Cause

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 28th day of September, 2006. (09-13-06)

RULEMAKING HEARINGS

TENNESSEE STATE BOARD OF EQUALIZATION - 0600

There will be a hearing before the Tennessee State Board of Equalization to consider the amendment of rules pursuant to Tenn. Code Ann. §§67-1-305. 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 17th floor conference room, James K. Polk State Office Bldg., 505 Deaderick Street, Nashville, Tennessee, at 10:30 a.m. on the 17th day of November, 2006.

Any individuals with disabilities who wish to participate in these proceedings should contact the Board to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Board's ADA Coordinator, Elaine Driver, at Ste. 1400, 505 Deaderick St., Nashville, TN 37243-0261 and tele. no. 615/401-7738.

For a copy of this notice of rulemaking hearing, contact: Kelsie Jones, Ste. 1700, 505 Deaderick St., Nashville, TN 37243-0280, and tele. no. 615/747-5379.

SUBSTANCE OF PROPOSED AMENDMENT

CHAPTER 0600-3 TAX RELIEF

Rule 0600-3-.02 Definitions is amended by adding the following new items:

- (8) "Division" is hereby defined as the Division of Property Assessments, Tax Relief Section.
- (9) "Collecting Official" is the county trustee or city collector and can include designees such as the deputies and assistants.
- (10) "Primary Residence" is the place where a person's habitation is fixed and is where, during periods of absence, the person definitely intends to return. A change of residence is made not only by relocation, but also by intent to remain in the new location permanently and by demonstrating actions consistent with that intention. Other factors which may be considered to determine a primary residence include purpose for a person's presence in a particular place; and the place of the person's licensing for activities such as driving.

Rule 0600-3-.02 Definitions is further amended by deleting paragraph (5) and substituting the following:

"Application credit voucher" (herein referred to as ACV) is (a) the tax relief application approved by the Division of Property Assessments for use in tax years subsequent to a recipient's initial year of tax relief, and (b) a voucher to be used for payment of taxes by a tax relief recipient in subsequent years of eligibility.

Rule 0600-3-.03 Age Requirement is amended by deleting the second sentence of paragraph (1) and substituting the following:

Acceptable evidences include, but are not limited to, (a) copy of birth certificate; (b) copy of medicare card; (c) copy of medicaid card; (d) copy of marriage certificate which states the taxpayer's age; or (e) copy of valid census record. Acceptable evidence will include verification of the date of birth provided by the Social Security Administration either by direct access or mail.

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Rule 0600-3-.04 Disability Requirement (Non-Veteran) is amended by deleting paragraph (1) and substituting the following:

A taxpayer, in order to satisfy property tax relief disability requirements, must be totally and permanently disabled during the tax year, and provide evidence of same no later than May 31 following the taxing jurisdiction's delinquency date. Acceptable evidence is written verification from (a) the Social Security Administration, (b) the Tennessee Department of Human Services, (c) the Veteran's Administration, (d) the Railroad Retirement Board, or (e) the duly constituted authority of any governmental or private entity which does not participate in the Social Security system. Acceptable evidence will include verification of the current disability status provided by the Social Security Administration either by direct access or mail. A duly constituted authority shall be any official body which would be recognized under law to grant benefits to an employee of that entity based on total and permanent disability. If the applicant is not eligible to obtain a written verification from one of the enumerated agencies, he or she may submit statements of a physician or other competent proof sufficient to establish disability in accordance with Social Security criteria for disability in effect at the time of application.

Rule 0600-3-.04 Disability Requirement (Non-Veteran) is further amended by deleting the last sentence of paragraph (2) and substituting the following:

Written verification must be received by the Division no later than May 31 following the taxing jurisdiction's delinquency date.

Rule 0600-3-.05 Veteran's Disability Requirement is amended by deleting the language "for a period of at least five (5) months" from the first sentence.

Rule 0600-3-.05 Veteran's Disability Requirement is further amended by deleting paragraph (1) and substituting the following:

Acceptable evidence for a service connected cause is written verification from the Veteran's Administration confirming (a) the service connected cause attributing to said disability, (b) total and permanent disability, and (c) the extent of said disability, i.e. paralysis, loss, or loss of use, of two or more limbs, or both eyes (including legal blindness).

Rule 0600-3-.05 Veteran's Disability Requirement is further amended by deleting paragraph (2) and substituting the following:

Acceptable evidence for a prisoner of war is written verification from the Veteran's Administration confirming that the total and permanent disability resulted from having served as a prisoner of war.

Rule 0600-3-.06 Widow(er) Of Disabled Veteran Requirement is amended by deleting the word "sole" from the third sentence of paragraph (1).

Rule 0600-3-.06 Widow(er) Of Disabled Veteran Requirement is further amended deleting paragraph (2) and substituting the following:

Acceptable evidence will be (a) written verification from the Veteran's Administration confirming the deceased veteran's disability; (b) a copy of the disabled veteran's death certificate; (c) ownership documentation; and (d) a form of identification for the spouse such as a copy of driver's license, medicare card, social security card, military i.d. card, etc.

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Rule 0600-3-.07 Certification Of Ownership And Residency is amended by deleting the last sentence of paragraph (2)(a) and substituting the following:

The taxpayer must establish that he or she was an owner of the property during the tax year, by evidence submitted no later than May 31 following the delinquency date for the tax jurisdiction.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting the words “on the face of the application” from paragraph (2)(b).

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting item (2)(c) in its entirety so that item (2)(c) as amended reads as follows:

That the authority to sign for the owner was established if someone other than the property owner applied or signed the application and a copy of the documentation was provided.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting paragraph (3)(b) so that item (3) as amended reads as follows:

For the ACV, before completing the certification, the collecting official must establish through the ownership and income information that the applicant reported information consistent with that of prior years and there is no reason to believe the applicant misunderstood the instructions.

Rule 0600-3-.07 Certification Of Ownership And Residency is further by deleting (4)(a) in its entirety and substituting the following:

Life Estate. A holder of a life estate may be eligible for tax relief. If the life estate is not shown on the tax receipt, acceptable evidence must be provided. Acceptable evidence will be a recorded property deed or other acceptable conveyance.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting paragraph (4)(b) part 1. and substituting the following:

1. If the surviving spouse is eligible by age/disability, ownership/residency, and income to receive tax relief in future years, he or she may apply on the DV and be qualified as a new applicant. If an ACV was received in the name of the deceased spouse, it is to be voided and returned to the state office with the application of the surviving spouse.

Rule 0600-3-.07 Certification Of Ownership And Residency is further amended by deleting (4)(c) and substituting the following:

- (c) Mobile Home Owner. An eligible taxpayer owning and whose primary residence is a mobile home may obtain tax relief if the following is provided in addition to the taxpayer’s application.
1. A title or bill of sale (If a title or bill of sale is not available, an affidavit of purchase or inheritance may be provided.);
 2. In the event the taxpayer does not own the land, a form from the assessor showing the assessment value of the mobile home; and
 3. A copy of the tax receipt.

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Rule 0600-3-.08 Income Requirement is amended by deleting the second sentence of (1) and substituting the following:

The yearly income will be the total combined income of all property owners for the calendar year prior to the tax year for which property tax relief is requested.

Rule 0600-3-.08 Income Requirement is further amended by deleting paragraph (3) and substituting the following:

Annual income from all sources shall include, but is not limited to, social security payments after the medicare deduction, social security disability after the medicare deduction, supplemental security income, retirement and pension benefits after deduction of healthcare insurance premiums, veteran's benefits, worker's compensation, unemployment compensation, salaries and wages, alimony, total interest and total dividends. For income from a business, farm, rental property, estate settlement, sale of securities, or other comparable source, include only the net income or loss after expenses. Documentation of the loss must be provided with the application. Gain or loss from the sale of a principal residence, AFDC, child support, food stamps, and VA aid and attendance shall not be considered income. Except as otherwise provided by statute or these rules, determinations regarding the income of an applicant or owners of property shall be guided by the federal income tax requirements for determining income in effect on January 1, 1992. When determining the income using a tax return, the adjusted gross income amount is used. This amount is added to any income sources specified above which may not be taxable by IRS standards.

Rule 0600-3-.08 Income Requirement is further amended by adding the following new subsection:

- (4) Social Security, Railroad Retirement benefits, and Veterans Administration benefits that are required to be paid to a nursing home for the care of the taxpayer, or co-owner(s), shall not be considered as income. Documentation completed by the nursing home administrator or person handling the taxpayer's business must be provided.

Rule 0600-3-.09 Methods of Application is amended by deleting the rule in its entirety and substituting the following:

- (1) Disbursement Voucher (initial application)
 - (a) The initial application for property tax relief is initiated by a DV application. The collecting official must assist the taxpayer in completing the form to ensure that all the information is accurate and complete. The application must be signed by all owners of the property and the collecting official must complete the certification. If the application is a joint county and city application, only the signature of one of the collecting officials is required.
 - (b) The collecting official does not have the legal authority to sign for the taxpayer on the DV. In the event the applicant cannot sign, one of the following methods for signature can be used.
 1. An individual with legal authority can sign for the applicant. Evidence of legal authority must accompany the application.
 2. An applicant's "X" mark can be obtained with the signatures and addresses of two witnesses.

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- (c) A DV can be used when the taxpayer is paying the taxes in full prior to 35 days after the delinquency date of the jurisdiction. When the taxes are paid in full, the collecting official will provide a copy of the tax receipt and submit the application to the Division by paper form or electronically. On approval, the taxpayer will receive the warrant for the amount of the relief.
 - (d) A DV can be used as a credit prior to 35 days after the delinquency date of the jurisdiction. The collecting official may calculate the amount of the tax relief and directly credit the taxpayer's bill in advance of approval by the Division. The collecting official must provide a receipt with the DV showing the amount of the credit applied and any remaining balance as paid. Upon approval, the Division will forward payment to the collecting official. In the event the DV is not approved, the Division will send a notification letter to the applicant advising the applicant of the non-approval. The collecting official will receive a copy of the notification letter.
- (2) Application Credit Voucher (subsequent application)
- (a) In each year following the year of initial application, an ACV application will be prepared for each taxpayer who received property tax relief in the previous tax year. The application will be distributed to each recipient on or about the first tax payment date for the jurisdiction. A duplicate copy will also be distributed to the collecting official together with a printed report (ACV Select Listing).
 - (b) The ACV may be presented to the collecting official together with the balance of the property tax payment. The collecting official will verify all information on the form, certify the same with his/her signature, and accept the ACV as partial payment of the property tax. The taxpayer should sign both copies of the ACV form. The ACV will be submitted to the Division for approval and payment of the property tax relief amount to the collecting official by paper form or via electronic means.
 - (c) The ACV may be presented to the collecting official together with full payment of the property tax. The collecting official will indicate in the payment instructions "Pay the Applicant" and present same to the Division for approval and payment. The property tax relief amount will be sent directly to the recipient.
 - (d) When the ACV is presented to the collecting official and the applicant is deemed ineligible, the reason for ineligibility will be indicated on the ACV. Also, ACVs that were never presented/used and the reason is unknown should be returned to the Division. These ACVs must be returned to the Division to ensure the accuracy of tax relief records.
 - (e) If the collecting official verifies through personal knowledge that the applicant is unable to sign and is not deceased, the collecting official can certify that the applicant is unable to sign on the ACV. Acceptable alternatives to the applicant's signature also include an individual with legal authority to act for the applicant such as a power of attorney, guardian, or conservator. Documentation of the legal authority must be provided in such cases.

Rule 0600-3-.10 Document Control is amended by deleting the last sentence in paragraph (1)(b).

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Rule 0600-3-.10 Document Control is further amended by deleting the word “immediately” from the second sentence in paragraph (1)(c).

Rule 0600-3-.10 Document Control is further amended by deleting the words “short form” from heading of paragraph (2).

Rule 0600-3-.11 Acceptance of Property Tax Relief Applications is amended by deleting the first paragraph and substituting the following:

Property tax relief applications must be submitted to the collecting official within 35 days after the delinquency date of the jurisdiction. The collecting official must review each application, certify its validity, and present same to the Division for approval and processing as soon as possible. Applications will not be accepted after May 31 following the delinquency date of the jurisdiction.

Rule 0600-3-.11 Acceptance Of Property Tax Relief Applications is further amended by deleting paragraph (1)(b) and substituting the following:

In addition to other deadlines imposed by these rules for submission of applications to the collecting official, all applications (DVs and ACVs) and supporting documentation must be submitted to the state office by May 31 following the delinquency date of the jurisdiction.

Rule 0600-3-.11 Acceptance Of Property Tax Relief Applications is further amended by deleting the last sentence of paragraph (3)(a) and substituting the following:

This provision for lost applications does not supersede the deadline of May 31 set forth in part (1)(b) above.

Rule 0600-3-.14 Moratorium on the Collection of Overpayments Due to Mistake should be deleted in its entirety and subsequent sections should be renumbered accordingly.

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is amended by deleting the language “the front of” from paragraph (1)(c).

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by adding “pursuant to 67-5-701(g)(1)” to the end of the sentence of item (4).

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting item (6) in its entirety and substituting the following language:

An ACV will not be processed by the state office unless recertification is accomplished at least every fourth tax year. In the fourth year, a message indicating “Recertification is Mandatory” will print on the vouchers for all applicants who have not been recertified in the three previous tax years. For example: ACVs produced for tax year 2006 will indicate “Recertification is Mandatory” for any applicants who have not been recertified since tax year 2002. Without recertification, these ACVs will not be approved for payment. It is the collecting official’s responsibility to develop a means of recertifying each recipient with the recertification message.

RULEMAKING HEARINGS

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting item (7) in its entirety and substituting the following:

Recertification of Disabled Homeowners: Beginning in tax year 1985, and every fourth year thereafter, the state office shall be responsible for obtaining current proof of disability of disabled homeowner recipients who qualified pursuant to T.C.A. §67-5-703 (Disabled Homeowners). Recertification of permanent and total disability is not required for those veterans who qualified according to T.C.A. §67-5-704 (Disabled Veteran's Residence). Disabled homeowner eligibility shall be established either by the receipt of current written verification from an authority duly constituted to make a determination that the homeowner is currently permanently and totally disabled; or, if the applicant is not eligible to obtain such verification; statements of a physician or other competent proof sufficient to establish disability in accordance with current Social Security criteria for disability may be submitted.

Rule 0600-3-.15 Recertification Of Tax Relief Recipients is further amended by deleting paragraph (5) in its entirety and renumbering accordingly.

Authority: T.C.A.. §67-1-305.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2006. (09-09-06)

RULEMAKING HEARINGS

TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION - 0620 BUREAU OF TENNCARE

There will be a hearing before the Commissioner to consider the promulgation of amendments of rules pursuant to Tennessee Code Annotated, 71-5-105 and 71-5-109. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Bureau of TennCare, 1st Floor East Conference Room, 310 Great Circle Road, Nashville, Tennessee 37243 at 9:00 a.m. C.S.T. on the 16th day November, 2006.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Finance and Administration, Bureau of TennCare, to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings) to allow time for the Bureau of TennCare to determine how it may reasonably provide such aid or service. Initial contact may be made with the Bureau of TennCare's ADA Coordinator by mail at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6474 or 1-800-342-3145.

For a copy of this notice of rulemaking hearing, contact George Woods at the Bureau of TennCare, 310 Great Circle Road, Nashville, Tennessee 37243 or call (615) 507-6446.

SUBSTANCE OF PROPOSED RULES

CHAPTER 1200-13-14 TENNCARE STANDARD

Part 26. of subparagraph (b) of paragraph (1) of rule 1200-13-14-.04 Covered Services is amended by adding a paragraph in the "Benefit for Persons Under Aged 21" * column so as amended part 26. shall read as follows:

* In the original version, the title of the column in the above instructions for amendment was erroneously stated as "Benefit for Persons Aged 21 and Over". The correct column title is in red text above. This correction was made October 27, 2006.

RULEMAKING HEARINGS

SERVICE	BENEFIT FOR PERSONS UNDER AGE 21	BENEFIT FOR PERSONS AGED 21 AND OLDER
<p>26. Pharmacy Services [defined at 42 CFR 440.120(a) and obtained directly from an ambulatory retail pharmacy setting, outpatient hospital pharmacy, mail order pharmacy, or those administered to a long term care facility (nursing facility resident)].</p>	<p>Covered as medically necessary. Certain drugs (known as DESI, LTE, IRS drugs) are excluded from coverage.</p> <p>Pharmacy services are the responsibility of the PBM, except for pharmaceuticals supplied and administered in a doctor's office, which are the responsibility of the MCO.</p> <p>For TennCare Standard children under age 21 who are Medicare beneficiaries, TennCare pays for medically necessary outpatient prescription drugs when they are covered by TennCare but not by Medicare Part D. Pharmaceuticals supplied and administered in a doctor's office to persons under the age of 21 are the responsibility of the MCO if not covered by Medicare.</p>	<p>Not covered.</p>

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

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2006. (09-10-06)

RULEMAKING HEARINGS

DEPARTMENT OF HEALTH - 1200 DIVISION OF EMERGENCY MEDICAL SERVICES

There will be a hearing before the Division of Emergency Medical Services to consider the promulgation of amendments of rules pursuant to T.C.A. §§ 68-140-504, 68-140-506, 68-140-508, and 68-140-509. 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 Conference Room of the Division of Emergency Medical Services, Third Floor, located at 227 French Landing Drive, Suite 303, Heritage Place Metrocenter, Nashville, Tennessee 37243 at 10:00 a.m., Central Standard Time, on the 21st day of November, 2006.

Any individuals with disabilities who wish to participate in these proceedings or review these filings should contact the Department of Health, Division of Emergency Medical Services to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date or the date the party plans to review such filings, to allow time for the Division of Emergency Medical Services to determine how it may reasonably provide such aid or service. Initial contact may be made with Richard F. Land, Director of Ambulance Service Licensure and Regulation, Division of Emergency Medical Services, 227 French Landing Drive, Suite 303, Heritage Place Metrocenter, Nashville, TN 37243, telephone 615-532-5989.

For a copy of the entire text of the notice of rulemaking, contact Richard F. Land, Director of Ambulance Service Licensure and Regulation, Division of Emergency Medical Services, 227 French Landing Drive, Suite 303, Heritage Place Metrocenter, Nashville, TN 37243, telephone 615-532-5989.

SUBSTANCE OF PROPOSED RULES

AMENDMENTS

CHAPTER 1200-12-1 GENERAL RULES

Subparagraph (f) of paragraph (1) of rule 1200-12-1-.04 Emergency Medical Technician is amended by deleting the existing language in its entirety and substituting the following language, so that as amended subparagraph (f)) shall read:

- (f) Must successfully complete an approved basic Emergency Medical Technician course including all license examinations.
 - 1. Written Examination
 - (i) Achieve a passing score on a Board approved written examination with a minimum score as established by the Board.
 - (ii) Applicants who fail to pass the examination shall be eligible to reapply for examination.
 - 2. Practical Examination
 - (i) All applicants must successfully complete an EMS Board approved practical examination.

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- (ii) Applicants who fail to pass the practical examination shall be eligible to reapply for examination.
- 3. All applicants must complete all requirements for licensure within two (2) years of completion of the training course and program.

Subparagraph (c) of paragraph (2) of rule 1200-12-1-.04 Emergency Medical Technician applicable to an EMT-Paramedic is amended by deleting the existing language in its entirety and substituting the following language, so that as amended subparagraph (c) shall read:

- (c) Must successfully complete an EMS Board approved Emergency Medical Technician Paramedic level course and all license examinations.
 - I. Written Examination
 - (i) Achieve a passing score on a Board approved written examination with a minimum score as established by the Board.
 - (ii) Applicants who fail to pass the examination shall be eligible to reapply for examination.
 - 2. Practical Examination
 - (i) An EMS Board approved practical examination must be successfully completed by all applicants.
 - (ii) Applicants who fail to pass the practical examination shall be eligible to reapply for examination.
 - 3. All applicants must complete all requirements for licensure within two (2) years of completion of the training course and program.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-140-504, 68-140-508, 68-140-509, and 68-140-518.

Rule 1200-12-1-.12 Authorization of Emergency Medical Technician Instructor/Coordinators is amended by deleting the existing language of paragraphs (1) and (2) in its entirety, and substituting the following language amending the paragraphs, inserting a new paragraph (3) and renumbering the existing paragraphs (3) and (4) as paragraphs (4) and (5), deleting the language of part 5 of subparagraph (5)(b) and substituting the following language, so that as amended the rule shall read:

- (1) EMS Program Director/Administrator shall mean an individual responsible for the overall coordination of all EMS Programs. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community, and the Division of Emergency Medical Services. The individual is also responsible for the recruitment and continued development of faculty to meet the needs of the institution. The minimum qualifications for EMS Program Director/Administrator shall include:
 - (a) Professional requirements
 - 1. Bachelor's degree required from a regionally accredited college/university.
 - 2. The program director must be licensed in Tennessee as an EMT-Paramedic, registered nurse, or physician.

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3. Professional license must be free from history of revocation, denial or suspension.
 4. Licensed emergency care experience shall include a minimum of three years practice.
 5. Administrative experience shall include a minimum of two (2) years in EMS educational administration.
 6. Current endorsement in a Board approved trauma, cardiac, and pediatric course at the provider level.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least forty-five (45) hours of advanced EMS instruction on an annual basis.
 2. Maintaining current credentials for the course content.
 3. Attendance at annual Instructor/Coordinator Conference as required by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMS Program Director/Administrator may be removed or denied by the Director for the following reasons:
1. Two or more instances of failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete and submit required documentation for all students.
 3. A lapsed, revoked, suspended or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
- (2) EMT-Paramedic Instructor/Coordinator shall mean an employee responsible for the delivery of instruction in accredited Paramedic Programs. The individual shall be knowledgeable in all aspects of prehospital care, capable of applying techniques and modalities of adult education, and of managing resources and resource personnel. The minimum qualifications for EMT-Paramedic Instructor/Coordinator shall include:
- (a) Professional requirements
1. Associate degree from a regionally accredited institution.
 2. Currently licensed as a Tennessee EMT-Paramedic, Registered Nurse, or physician.
 3. Professional license must be free from history of revocation, denial or suspension.

RULEMAKING HEARINGS

4. Licensed emergency care experience shall include a minimum of two years practice.
 5. Administrative experience shall include a minimum of two (2) years in EMS educational administration or greater than three hundred (300) hours of EMS instruction.
 6. Current endorsement in a Board approved trauma, cardiac, and pediatric course at the provider level.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least one hundred (100) hours of advanced EMS instruction on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic.
 3. Maintaining current CPR instructor endorsement.
 4. Attendance at annual EMT Instructor/Coordinators conference as required by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT-Paramedic Instructor/Coordinator may be removed or denied by the Director for the following reasons:
1. Two or more instances of failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete, and submit as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
- (3) EMT Paramedic Instructor Assistant shall mean an individual capable of teaching the application of practical skills to include: assisting the faculty in the delivery of instruction, evaluating student performance of skills, maintenance of equipment, and coordinating with the faculty or Instructor/Coordinator to maintain adequate levels of needed equipment. The minimum qualifications for an EMT-Paramedic Instructor assistant shall include:
- (a) Professional requirements
1. Currently licensed as a Tennessee EMT-Paramedic, Registered Nurse, or physician without a history of revocation, denial or suspension of licensure.
 2. Licensed experience with a minimum of two years practicing advanced life support in the pre-hospital or emergency department environment.

RULEMAKING HEARINGS

3. Minimum of two years experience in EMS education administration or greater than seventy-five (75) hours of EMS instruction.
 3. Current endorsement in an EMS Board approved trauma, cardiac and pediatric course as an instructor.
 4. Completion of an EMS Board approved instructors' assistant course.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least forty-five (45) hours of advanced EMS instruction on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic, Registered Nurse or Physician.
 3. Current endorsement in an EMS Board approved trauma, cardiac and pediatric course as an instructor.
 4. Attendance at annual Instructor update as required by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Paramedic Instructor Assistant may be removed or denied by the Director for the following reasons:
1. Two or more instances of failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete, and submit required documentation for all students.
 3. A lapsed, revoked, suspended or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
- (4) EMT-Basic Instructor/Coordinator shall mean an individual responsible for the overall coordination of the EMT-Basic Program. The individual shall act as a liaison between faculty, the sponsoring agency, students, the local medical community and the Division of Emergency Medical Services. The individual is also responsible for the delivery of didactic material, demonstration of the psychomotor skills, verification of skill proficiency, and the recruitment and continued development of faculty to meet the needs of the institution. The minimum qualifications for the EMT -Basic Instructor Coordinator shall include:
- (a) Professional requirements
1. Associate degree from a regionally accredited institution.
 2. Currently licensed as a Tennessee EMT-Paramedic, without history of revocation, denial, or suspension of licensure.

RULEMAKING HEARINGS

3. Experience. Pre-Hospital: Minimum of two years practicing in the pre-hospital environment or one hundred fifty (150) hours of EMS instruction acceptable to the Board. Administrative: Minimum of one year in EMS education administration.
 4. Completion of an EMS Board approved Instructors' course.
 5. The provisions of subparagraph (a) shall not apply to any EMT – Basis Instructor/Coordinator authorized by the Division prior to July 1, 2001.
- (b) Authorization Renewal shall be contingent upon:
1. Assisting with at least seventy-five (75) hours instruction (EMT-Basic or EMT-IV or EMT-I or EMT-P) on an annual basis.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Paramedic.
 3. Maintaining current CPR instructor endorsement.
 4. Attendance at annual EMT Instructor/Coordinators conference as required by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT-Paramedic Instructor may be removed or denied by the Director for the following reasons:
1. Two or more instances of failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete and submit, as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended, or expired license.
 4. Any violation of Tennessee Code Annotated, Title 68, Chapter 140 or any rule promulgated by the Board.
- (5) EMT Instructor Assistant shall mean an individual capable of teaching the application of practical skills including assisting the faculty in the delivery of instruction, evaluating student performance of skills, maintenance of equipment, and coordinating with the faculty or Instructor/Coordinator to maintain adequate levels of needed equipment. The minimum qualifications for an EMT Instructor Assistant shall include:
- (a) Professional requirements.
1. Currently licensed as a Tennessee EMT-Basic, without history of revocation, denial, or suspension of licensure.
 2. Licensed experience shall include a minimum of one year practicing in the pre-hospital environment in Tennessee.
 3. Must document at least seventy-five (75) hours of EMS instruction acceptable to the Board.

RULEMAKING HEARINGS

- (b) Authorization Renewal shall be contingent upon:
1. Document at least forty-five (45) hours of EMT instruction on an annual basis and acceptable to the Board.
 2. Maintaining current Tennessee licensure as an Emergency Medical Technician-Basic.
 3. Maintaining current CPR instructor endorsement.
 4. Completion of an EMS Board approved Instructors' course.
 5. Attendance at an annual Instructor update as mandated by the Division of Emergency Medical Services.
- (c) Denial of Reauthorization or Revocation of Authorization - The authorization of an EMT Instructor Assistant may be removed or denied by the Director for the following reasons:
1. Consistent (two instances) failure to cover the prescribed course curriculum or failure to conduct the course in accordance with the practices prescribed by the Board and the Division.
 2. Failure to complete and submit, as required, all required documentation for all students in each class.
 3. A lapsed, revoked, suspended, or expired license.
 4. Any violation of Tennessee Code Annotated Title 68, Chapter 140, or any rule promulgated by the Board.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 68-140-504, 68-140-505, 68-140-508, 68-140-509, and 68-140-518.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of September, 2006. (09-20-06)

RULEMAKING HEARINGS

THE TENNESSEE DEPARTMENT OF HUMAN SERVICES - 1240 TENNESSEE BUSINESS ENTERPRISES

There will be hearings 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 hearings 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 Knoxville State Office Building, 7th Floor Conference Room A, at 531 Henley Street, Knoxville, Tennessee 37902 at 1:30 p.m. EST on Thursday, November 16, 2006; 2nd Floor Boardroom, Citizens Plaza Building, 400 Deaderick Street, Nashville, Tennessee 37248 at 1:30 p.m. CST on Tuesday, November 21, 2006; and in the Donnelley J. Hill State Office Building, Second Floor Auditorium at 170 North Main Street, Memphis, Tennessee 38103 at 6:00 p.m. CST on Thursday, November 16, 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, Citizens Plaza Building, 400 Deaderick Street, 3rd Floor, Nashville, Tennessee 37248, telephone number (615) 313-5563 (TTY)-(800) 270-1349.

For a copy the proposed rule contact: Kevin Rhoten, Assistant General Counsel, Department of Human Services, Citizens Plaza Building, 400 Deaderick Street, 15th Floor, Nashville, TN 37248-0006, telephone number (615) 313-4731.

SUBSTANCE OF PROPOSED RULES OF THE TENNESSEE DEPARTMENT OF HUMAN SERVICES TENNESSEE BUSINESS ENTERPRISES

CHAPTER 1240-6-12 COMMITTEE OF BLIND VENDORS

AMENDMENTS

Chapter 1240-6-12 is amended by adding a new subchapter as 1240-6-12.-02 and renumbering the current subchapters 1240-6-12.-02 through 1240-6-12.-04 as 1240-6-12.-03 through 1240-6-12.-05. The language of the new 1240-6-12.-02 is as follows:

1240-6-12.-02 PRIORITY FOR UNASSIGNED VENDING MACHINE LOCATIONS

- (1) Any public property that desires vending services is required pursuant to 1240-6-12.-01(3) above to notify the department so that a survey can be conducted. If the results of that survey suggest that the location should not be assigned to a blind vendor, the department will arrange for the service to be provided by a third party vendor. Such locations shall be referred to as "unassigned" locations. When making a decision as to whether or not to assign a blind vendor, the department will consider the following factors:
 - (a) Sales volume,
 - (b) Budgetary/revenue needs of TBE,

RULEMAKING HEARINGS

- (c) Cost of installing any equipment,
 - (d) History of the location,
 - (e) Availability of a licensed blind vendor,
 - (f) Any other factors the department deems pertinent relative to the specific location.
- (2) The department shall have the authority to select the third party vendor to provide the desired vending services and shall execute an agreement with the third party vendor authorizing said vending services. The department may consult with any entity affected by the selection of the vendor. If a third party vendor is currently providing services, and those receiving said services are satisfied with the level and quality of services, the department may elect to allow that vendor to continue providing services provided an acceptable agreement can be negotiated.
- (a) The department shall determine pricing of products to be sold. The department shall ensure that prices are fair and do not exceed prices normally charged by licensed blind vendors in other government buildings. To the extent practical, the department will attempt to ensure consistency in pricing from one unassigned location to another.
 - (b) The department shall negotiate a fair and competitive commission rate to be paid by the third party vendor to the department for use pursuant to 1240-6-8.-02. The third party vendor shall be required to submit written reports verifying sales and the accuracy of the commission payments. Such reports are subject to audit by the department and/or other state entities. The department shall have the right to establish other procedures as appropriate to ensure it is receiving all funds to which it is entitled.
 - (c) If a property management official fails to comply with subsection (a) above and arranges for vending services on his/her own and it comes to the attention of the department, representatives of the department shall notify the property management official of the non-compliance and make arrangements for the private vendor to send all future commissions from the vending machines to the department. The department shall negotiate a fair commission rate and may replace the third party vendor if an agreement cannot be reached with the company providing the service.
 - (d) The department, in its sole discretion, may elect to share revenue from the vending machines with the state or local government entity. This will be done primarily to offset any loss in revenue by the government entity as the result of the department assuming responsibility for the vending machines. Such an income sharing arrangement may be time limited and may impact the pricing structure of products being sold through the vending machines.
 - (e) The department will act to correct any documented deficiencies in service that are brought to its attention. This may include removing and replacing a third party vendor.
 - (f) The department, in its sole discretion, may elect to remove a third party vendor from any location and assign the vending to a licensed blind vendor. On an annual basis, the department shall provide sufficient information to the Committee of Blind Vendors so that the Committee can actively participate in decisions as to any of the unassigned locations that could be considered for assignment to a blind vendor.
 - (g) If any dispute arises between property management and the department as the result of enforcement of these provisions, either party shall have the right to file a complaint with the Secretary of State's Office pursuant to Tenn. Code Ann. § 71-4-507.

RULEMAKING HEARINGS

- (h) Revenue from unassigned locations shall be spent in accordance with 1240-6-8.-02 of these rules and regulations.
- (i) The department shall maintain records of all unassigned locations and provide reports on a quarterly basis to the Committee of Blind Vendors.
- (j) After affording the Committee an opportunity for active participation, the department may choose to employ adequate staff or may elect to contract with a third party entity to carry out the provisions of this section.
- (k) These provisions do not apply to vending machines located at interstate rest areas. The installation of such machines and the revenue from those machines are governed by federal guidelines.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.

THE TENNESSEE DEPARTMENT OF HUMAN SERVICES TENNESSEE BUSINESS ENTERPRISES

CHAPTER 1240-6-17 PROCUREMENT REQUIREMENTS

NEW RULES

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1240-6-17.-06	Purchases Recommended by the Committee of Blind Vendors

1240-6-17.-01 GENERAL

- (1) It is the responsibility of the department to administer Tennessee Business Enterprises in accordance with all applicable state and federal laws, rules, and regulations. As the caretaker of funds levied against the licensed blind vendors and funds received from unassigned vending locations, the department must ensure that such funds are accounted for and expended in accordance with acceptable practices.
- (2) T.C.A. 71-4-403 exempts TBE from most purchasing requirements normally required of a state entity. This exemption does not relieve the department from being a good steward of the funds. The department must ensure that goods and services are secured at the best price practical taking into consideration all factors. The department will develop internal policies to ensure that goods and services are purchased at a fair and reasonable price.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.

RULEMAKING HEARINGS

1240-6-17.-02 EQUIPMENT PURCHASES

- (1) The department will purchase necessary equipment using funds collected pursuant to 1240-6-9.-01 and 1240-6-12.-02 and federal vocational rehabilitation dollars if such federal funds are available. Written bids may not be required when purchasing equipment; however, TBE staff has an obligation to ensure that purchases are made in a cost effective manner. In making decisions about which equipment to purchase, the staff person shall consider costs as well as delivery time, quality, past performance of the equipment and/or supplier, trade-in allowance, decor if machines are being matched with other machines in a location, and the preferences of the licensed blind manager who will be servicing the machines.
- (2) Although written bids are not required, the department may elect to solicit annual price quotes from vending machine distributors. TBE shall treat these price quotes as bids and will purchase the least expensive piece of equipment when practical if it meets the needs of the facility and the licensed blind manager.
- (3) Purchases \$1,000 and Less– TBE Consultant / Specialist may make these purchases without prior supervisory approval and without the need to solicit competitive bids.
- (4) Purchases from \$1,001 up to and including \$5,000 – TBE Consultant / Specialist must obtain supervisory and the department's Fiscal Services approval before making purchases. Written bids are not required except that any price quotes received pursuant to subsection (2) above will be considered when making purchasing decisions.
- (5) Purchases Over \$5,000 – Any purchase that exceeds \$5,000 requires prior supervisory and Fiscal Services approval. Competitive bids will be required in accordance with the TBE's internal policies and procedures.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.

1240-6-17.-03 CONSTRUCTION AND RENOVATIONS

- (1) When installing a new vending facility or renovating an existing vending facility, the department may be required to perform construction. The department shall ensure that any construction work is done at competitive prices. The same requirements as specified in 1240-6-15.02 above shall apply to any construction projects.
- (2) Construction projects on any state property may require approval by the State Building Commission. The department must comply with the requirements of the State Building Commission.
- (3) The architect responsible for the construction project may solicit bids for such project on behalf of the department.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.

RULEMAKING HEARINGS

1240-6-17.-04 MERCHANDISE PURCHASES

- (1) It is the responsibility of the department to provide the initial merchandise inventory for all vending facilities. When purchasing merchandise for a vending facility, the TBE Consultant / Specialist must secure supervisory and Fiscal Services approval regardless of the amount of merchandise being procured. Bids shall not be required. All merchandise shall be purchased from reputable wholesale distributors.
- (2) If no wholesale distributor is available or willing to accept the department's payment authorization, merchandise may be purchased from a licensed blind manager provided the manager sells the product at his/her actual cost.
- (3) The amount of merchandise to be purchased for a vending facility shall be made in accordance with policies contained in the Operations Manual and shall be based upon projected sales volume.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.

1240-6-17.-05 PROCUREMENT OF NON-TANGIBLE GOODS AND SERVICES

- (1) In order to ensure an effective and efficient operation, the department may choose to procure certain non-tangible goods and services that can be provided better and perhaps more cost effectively by third party private sector vendors. Competitive bids are not always practical. The department shall generally negotiate a fee or pay the standard and customary rate for the service being provided.
- (2) The department, after active participation by the Committee of Blind Vendors, may elect to hire its own technicians to provide vending machine maintenance and repair services or procure the services from private sector vendors. If it elects to purchase such services, the department will establish agreements with local companies who have an expertise in repairing vending machines. These agreements shall include an agreed upon hourly rate, mileage rate not to exceed the amount authorized by Comprehensive State Travel Regulations, and the amount to be paid for parts. At least once every five years, the department shall solicit bids from companies to ensure that costs are competitive. Companies expressing an interest in providing such services will be interviewed by department staff and local representatives of the Committee of Blind Vendors before a private sector vendor is selected to provide the service. Price shall not be the only factor considered when selecting the repair vendor. The department may also consider the company's record of performance, the qualifications of its vending machine technicians, its financial resources, stability of management, and other such factors.
- (3) When a piece of equipment other than a vending machine is in need of repair, the department shall contact a company that specializes in such repairs. For example, if a freezer is broken, a refrigeration company will be contacted; if the air conditioning goes out, a heating and air contractor will be contacted; and if there are plumbing issues, a licensed plumber will be contacted. Whereas bidding individual repair jobs is not practical, the department shall pay the standard and customary fee that the company charges all customers for such services.
- (4) The department may choose to incorporate equipment moves into its agreements with the companies providing the vending machine repair services since most of the machines being moved are vending machines. If not, the department will solicit three bids from reputable companies willing to provide the service on an hourly rate. Bids shall be good for a predetermined time period.

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- (5) On certain construction or renovation projects, the department may have to secure the services of an architect. The department will pay the hourly rate that has been established by the State Building Commission.
- (6) From time to time, the department may be required to procure other services on behalf of the program. The department may either pay the standard and customary fee associated with a service or negotiate agreements that ensure that quality services are being provided at fair and competitive prices.

Authority: *T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.*

1240-6-17.-06 PURCHASES RECOMMENDED BY THE COMMITTEE OF BLIND VENDORS

- (1) The Committee of Blind Vendors shall be granted consideration in major administrative decisions, including, but not limited to, funds expended from those levied against licensed blind managers or received in commissions from unassigned locations. This includes making recommendations on the purchase of certain goods and services. When using non-appropriated funds, the department may abide by the recommendations of the Committee of Blind Vendors without the necessity of soliciting written bids provided the Committee considers cost when making its recommendation.

Authority: *T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14.*

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of September, 2006. (09-14-06)

RULEMAKING HEARINGS

BOARD OF MEDICAL EXAMINERS - 0880

There will be a hearing before the Tennessee Board of Medical Examiners to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-6-204, and 63-6-224. 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 21st 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 0880-2-.21 Office Based Surgery, is amended by adding the following language as new subparagraphs (9) (g), (9) h), (9) (i), (9) (j), (9) (k), (9) (l) and (9) (m), and is further amended by deleting part (11) (c) 1. in its entirety and substituting instead the following language, so that as amended, the new subparagraphs (9) (g), (9) h), (9) (i), (9) (j), (9) (k), (9) (l), and (9) (m) and the new part (11) (c) 1. shall read:

- (9) (g) Physicians are authorized to perform in their offices only the Level III surgical procedures that have all of the following characteristics: a duration of less than four (4) hours; generally results in blood loss of less than ten percent (10%) of estimated blood volume in a patient with normal hemoglobin; will not require major or prolonged intracranial, intrathoracic, abdominal or major joint replacement procedures (except laparoscopic procedures); will not directly involve major blood vessels, and are not generally emergent or life threatening in nature. In the case of multiple procedures, the combination of all planned procedures shall not exceed four (4) hours. In addition, Level III surgeries shall be limited to the following:

[A list of Level III surgeries authorized in physician's offices shall be developed by the Board of Medical Examiners in response to public comments received during the rulemaking process.]

- (9) (h) Level III surgeries may occur only in physician offices that have received a site survey by the Department of Health in accordance with this provision. The board shall enter into a memorandum of understanding, contract or other written arrangement with the Department of Health pursuant to which the Department of Health will provide site surveys of physician's offices that propose to provide Level III surgeries. All rules and regulations governing ambulatory surgical treatment centers relative to infection control, life safety, patient rights, hazardous waste and equipment and supplies shall apply to physician offices where Level

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III surgeries are performed. In order to obtain a site survey in accordance with this provision, the physician shall pay to the Board a fee in the same amount as the application fee payable to the Department of Health for an ambulatory surgical treatment center.

- (9) (i) Operating rooms where Level III surgeries occur and the recovery rooms for patients shall be used exclusively for surgery and recovery, respectively. Except for emergencies, the operating rooms and recovery rooms may be utilized only by physician employees of the clinic in which the rooms are located. Operating rooms and recovery rooms may not be shared with other clinics or other physicians.
- (9) (j) Prior to surgery, physicians performing Level III surgery shall inform the patient that the facility is not licensed by the State of Tennessee and shall explain the risks, benefits and alternatives. Prior to surgery, the physician shall obtain a written informed consent from the patient or patient's representative establishing consent to surgery being performed in the physician's office. The informed consent form shall include acknowledgement by the patient or patient's representative that he or she has been informed of the option to have the surgery performed in a licensed facility.
- (9) (k) In order for a physician's office to be qualified as a site for Level III surgery, all physicians who propose to perform such surgery in such facility must submit to the board on a form provided by the board the following: procedures expected to be performed, the specialty board certification or board eligibility of the physicians performing procedures, verification of medical malpractice coverage; and verification of hospital staff privileges. The form required by this subsection shall be updated each time the physician's license is renewed.
- (9) (l) Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule shall submit the form required in subparagraph (j) and remit payment for the site survey required in subparagraph (h) within sixty (60) days of the effective date of this amended rule. If such an office make a timely filing in accordance with this paragraph and otherwise complies with the provisions of this rule, then such office may continue to be a site for Level III surgeries pending completion of a survey confirming compliance with subparagraph (h). Physician offices at which Level III surgeries are occurring as of the effective date of this amended rule that fail to make the filing described in this paragraph shall cease to be qualified as a site for Level III surgeries as of the sixtieth (60th) day after the effective date of this amended rule.
- (9) (m) The Board shall post on its web site a list including the names, locations and principal owners of physician offices that have qualified as sites for Level III surgeries. Information on the list shall be updated quarterly or more frequently.
- (11) (c) 1. For all Level III surgery procedures performed pursuant to these rules, the maximum planned duration of all surgical procedures combined must not exceed four (4) hours.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-204.

Rule 0880-5-.04 Qualifications for Limited Certification, is amended by deleting subparagraphs (1) (c) and (1) (d) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (1) (c) and (1) (d) shall read:

- (1) (c) Skull and Sinuses

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(1) (d) Spine

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.05 Educational Course, Approval and Curriculum for Limited Certification, is amended by deleting subparagraph (2) (b), subparagraph (2) (c), and parts (2) (d) 1., (2) (d) 2., (2) (d) 3. and (2) (d) 4. in their entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b), subparagraph (2) (c), and parts (2) (d) 1., (2) (d) 2., (2) (d) 3. and (2) (d) 4. shall read:

- (2) (b) Specialty Areas - Defined as the study of radiography of a particular anatomical part including human structure and function, radiographic positioning and procedures, and evaluation of radiographs. Each separate specialty area course shall minimally consist of the following amount of classroom clock hours:
 - 1. Chest – ten (10) classroom clock hours;
 - 2. Extremities – forty (40) classroom clock hours;
 - 3. Skull and Sinuses – ten (10) classroom clock hours; and
 - 4. Spine – thirty (30) classroom clock hours.
- (2) (c) Clinical Training - Defined as “hands-on” observation and participation in the production of diagnostic radiographs. Clinical training must be supervised by either a residency-trained radiologist, or by a licensed physician in conjunction and consultation with a fully-licensed and registered operator (A.R.R.T. technologist) with at least three (3) years experience when appropriate. This training shall minimally consist of the following amount of clinical clock hours for each specialty area in which certification is sought:
 - 1. Chest – thirty (30) clinical clock hours;
 - 2. Extremities – eighty (80) clinical clock hours;
 - 3. Skull and Sinuses – thirty (30) clinical clock hours; and
 - 4. Spine – eighty (80) clinical clock hours.
- (2) (d) 2. Extremities
 - (i) Upper Extremity – includes all routine views of the fingers up through the pectoral girdle.
 - (ii) Lower Extremity – includes all routine views of the toes up through the pelvis (and includes sunrise view of patella/knee).
- (2) (d) 3. Skull and Sinuses
 - (i) Skull – includes AP/PA, Townes and Lateral.
 - (ii) Sinuses – includes upright PA/Caldwell, Lateral, and Waters.
- (2) (d) 4. Spine

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- (i) Cervical – includes AP/PA, lateral, obliques, and open mouth odontoid.
- (ii) Thoracic – includes AP/PA, lateral, and Swimmers.
- (iii) Lumbar – includes AP/PA, lateral, spot lateral of L5-S1, and obliques.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.06 Examinations for Certification, is amended by deleting subparagraph (2) (b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (2) (b) shall read:

- (2) (b) Full Certification - A.R.R.T. certification will substitute for all examinations required by the Board and will be the basis for full certification, except for bone densitometry, unless the A.R.R.T. certification includes the bone densitometry specialty.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.07 Obtaining and Upgrading Full and Limited Certification, is amended by deleting paragraph (2) in its entirety and substituting instead the following language, so that as amended, the new paragraph (2) shall read:

- (2) Upon approval for issuance of certification, the Board shall issue a certificate which contains either the specific radiological limitations as reflected by the application materials received or full certification, as provided in Rule 0880-5-.06 (2) (b).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

Rule 0880-5-.09, Continuing Education, is amended by inserting the following language as new subparagraph (1) (b) and renumbering the existing subparagraph (1) (b) as (1) (c):

- (1) (b) Two (2) of the required twenty (20) biennial continuing education hours must be pertaining to appropriate statutes, rules and regulations, and other subjects that would be directly related to compliance with, and/or penalties for non-compliance of the statutes, rules and regulations. This course must include content pertaining to the A.R.R.T.'s Standards of Ethics if the certificate holder is fully certified.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, and 63-6-224.

The notice of rulemaking set out herein was properly filed in the Department of State on the 26th day of September, 2006. (09-11-06)

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 repeals of rules pursuant to Tennessee Code Annotated, Section 70-1-206. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Region II Conference Room of the Tennessee Wildlife Resources Agency, Ray Bell Region II Building, 5105 Edmondson Pike, Nashville, Tennessee, at 9:00 a.m., local time, on the 14th day of December, 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 1660-1-5 RULES AND REGULATIONS FOR FISHING

AMENDMENT

Rule 1660-1-5-.03, TWRA Lakes, is amended by adding the sentence, "Non-Residents exempt from the Daily Lake Permit are: children under 16 years of age." at the end of paragraph (3), so that, as amended, it shall read as follows:

- (3) Residents exempt from the Daily Lake Permit are: those 65 years of age and older, children under 16 years of age and those with a Sportsman License. Non-Residents exempt from the Daily Lake Permit are: children under 16 years of age.

Authority: T.C.A. §§ 70-1-206, 70-2-219 and 70-2-225

CHAPTER 1660-1-27 RULES AND REGULATIONS FOR STATE OPERATED HUNTER EDUCATION CENTERS AND FIRING RANGES

NEW RULE

Chapter 1660-1-27, Rules and Regulations for State Operated Hunter Education Centers and Firing Ranges, is amended by adding a new rule, 1660-1-27-.07, Montgomery County Shooting Complex, that shall read:

1660-1-27-.07 MONTGOMERY COUNTY SHOOTING COMPLEX.

- (1) Use Fees

RULEMAKING HEARINGS

- (a) Adult (16 years of age and older) - \$5.00 per 2 hours
- (b) Youth (15 years of age or less) - \$1.00 per 2 hours
- (c) Adult Annual (16 years of age and older) - \$100.00
- (d) Youth Annual (15 years of age or less) - \$25.00

Authority: T.C.A. §70-1-206 and §70-2-224

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

1660-1-28-.04 Miscellaneous Licenses, Permits and Fees is hereby amended by inserting a Facility Fishing License (Type 07) with no fee so that, as amended, the rule shall read:

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

Type: Description:

06	Migratory Bird Permit (Harvest Inventory Permit).....	\$1.00
07	Facility Fishing License.....	no cost
12	Apprentice Hunting License.....	\$10.00
101	Resident Commercial Fisher License.....	\$200.00
102	Resident Commercial Helper License - Fishing.....	\$200.00
103	Nonresident Commercial Fisher License.....	\$1,000.00
104	Nonresident Commercial Helper License - Fishing.....	\$1,000.00
105	Resident Commercial Musseler License.....	\$200.00
107	Nonresident Commercial Musseler License.....	\$1,000.00
108	Resident Commercial Roe Fish Permit – Supplemental.....	\$1,000.00
109	Cultured Pearl License.....	\$1,000.00
110	Nonresident Commercial Roe Fish Permit, Supplemental.....	\$1,500.00
111	Resident Wholesale Roe Fish Permit.....	\$500.00
112	Nonresident Wholesale Roe Fish Dealer.....	\$1,000.00
113	Wholesale Fish Dealer’s License.....	\$500.00
115	Wholesale Mussel Dealer’s License.....	\$500.00
116	Nonresident Fish Dealer’s License.....	\$500.00
117	Falconry General Permit – Supplemental.....	\$60.00
118	Resident Fish Dealer’s License.....	\$50.00
120	Nonresident Trapping License.....	\$400.00
121	Resident/Non-resident Fur Buyer License.....	\$150.00
122	Falconry Apprentice Permit – Supplemental.....	\$60.00
123	Falconry Master Permit – Supplemental.....	\$60.00
124	Commercial Wildlife Preserve - Big Game Permit.....	\$300.00
125	Commercial Wildlife Preserve - Small Game Permit.....	\$150.00
141	Taxidermist Permit.....	\$100.00
149	Animal Importation Permit, One Shipment.....	\$25.00
150	Animal Importation Permit, Annual.....	\$200.00
160	Permanent Exhibitor Permit.....	\$1,000.00
161	Temporary Exhibitor Permit.....	\$250.00

RULEMAKING HEARINGS

166	Resident Senior Citizen's Permanent License	\$10.00
167	Annual Senior Citizen's Permit - Supplemental	\$40.00
170	Personal Possess Permit, Class I, One Animal,	\$150.00
171	Personal Possess Permit, Class I, Entire Facility,	\$1,500.00
172	Personal Possession Permit, Class II, One Animal	\$25.00
173	Personal Possession Permit, Class II, Entire Facility.	\$250.00
174	Propagation Facility Permit, Small Game/Waterfowl	\$50.00
175	Propagation Facility Permit, Class II, Except Small Game/Waterfowl	\$250.00
176	Propagation Facility Permit, Class I	\$2,500.00
189	Resident Permanent Sport Combination Hunting and Fishing License - Permanent Wheelchair Restricted	\$10.00
190	Slat Basket Tag Permit	\$8.00
194	Replacement License or Permit – Cost for replacement of one license or permit in a single transaction	\$6.00
195	Replacement License or Permit \$1.00 – Cost for replacement of each additional license or permit in a single Type 194 transaction	\$1.00
197	Resident Permanent Sport Fishing License - Certified Blind	\$10.00
198	Resident Permanent Sport Combination Hunting and Fishing License (Sport Fishing and Hunting License) - Disabled Veterans	\$10.00
199	Resident Permanent Sport Fishing License – Persons Drawing Social Security Benefits Due to Mental Retardation	\$10.00
500	Hunter Education Replacement Card	\$6.00

Authority: T.C.A. §70-1-206 and §70-2-108(a)

NEW RULE

Rule 1660-1-28, Rules and Regulations Governing Licenses, Permits and Fees, is also amended by adding a new rule, 1660-1-28-.06, Facility Fishing License - Eligibility and Conditions, to read as follows:

1660-1-28-.06 FACILITY FISHING LICENSE - ELIGIBILITY AND CONDITIONS:

- (1) This license is available at no cost upon written request by a representative employee of a facility located in Tennessee (i.e., hospital, residence or school) that desires to hold a recreational fishing event for residents, students or patients with physical or mental disabilities or for elderly group home residents as part of a medically approved therapy. A representative of the facility must supervise the participants at all times.
- (2) Such written request must be sent to the Executive Director of TWRA at least two (2) weeks prior to the event. The license is good for only one fishing event or trip, not to exceed three (3) days. If further events or additional days are desired, another written request must be made. All fishing must be done in compliance with state laws, rules and regulations and proclamations.

Authority: T.C.A. §70-1-206 and §70-2-108(a)

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of September, 2006. (09-17-06)

WILDLIFE PROCLAMATIONS

TENNESSEE WILDLIFE RESOURCES COMMISSION PROCLAMATION - 1660

PROCLAMATION 06-20 MIGRATORY BIRD HUNTING SEASONS AND REGULATIONS

Pursuant to the authority granted by Title 70, Tennessee Code Annotated, and Section 70-4-107 thereof, the Tennessee Wildlife Resources Commission hereby proclaims the following migratory bird hunting regulations effective October 1, 2006. Season dates and limits pending final Federal Frameworks.

Section I. Hunting Seasons

Species	Season Opens	Season Closes
A. Ducks, Coots, and Mergansers		
Reelfoot Duck Zone	Nov. 11 Dec. 2	Nov. 12 Jan. 28
Reelfoot Duck Zone shall include the waters of Reelfoot Lake.		
Remainder of State	Nov. 25 Dec. 2	Nov. 26 Jan. 28
B. Youth Waterfowl Hunting Season		
Reelfoot Duck Zone	Feb. 10	Feb. 11
Remainder of State	Feb. 3	Feb. 4

Youth waterfowl hunters must be 6-15 years of age. An adult at least 21 years of age must accompany the youth hunter into the field and must remain in a position to take control of the hunting device. This adult cannot duck hunt but may participate in other open seasons. Geese, coots, gallinules, moorhens, and ducks may be taken by youths during the Youth Waterfowl Season.

C. Purple Gallinules and Common Moorhens

Reelfoot Duck Zone	Nov. 11 Dec. 2	Nov. 22 Jan. 28
Remainder of State	Nov. 15 Dec. 2	Nov. 26 Jan. 28

WILDLIFE PROCLAMATIONS

Section I. Hunting Seasons (Cont.)	Season Opens	Season Closes
D. Virginia Rails and Sora Rails		
Reelfoot Duck Zone	Nov. 11 Dec. 2	Nov. 22 Jan. 28
Remainder of State	Nov. 15 Dec. 2	Nov. 26 Jan. 28
E. White-fronted Geese	Dec. 2	Feb. 11
F. Blue, Snow, and Ross' Geese	Nov. 11	Feb. 25
G. Brant	Nov. 25	Jan. 31
H. Canada Geese		
1. Northwest MVP Zone: Mississippi Valley Population Lake, Obion, and Weakley Counties, and Those Portions of Gibson and Dyer Counties Not Included in the Southwest MVP Zone.	Dec. 2	Feb. 11
2. Southwest MVP Zone: Mississippi Valley Population That portion of the state bounded on the north by State Highways 20 and 104, and on the east by U.S. Highways 45W and 45.	Oct. 7 Dec. 10	Oct. 15 Jan. 28
3. Kentucky/Barkley Lake Zone: Southern James Bay Population. That area west of Highway 13 not in the Northwest and Southwest MVP Zones.	Oct. 7 Dec. 10	Oct. 15 Jan. 28
4. Remainder of the State:	Oct. 7 Dec. 2	Oct. 15 Jan. 31

The Remainder of the State includes all counties or portions of counties east of State Highway 13.

WILDLIFE PROCLAMATIONS

Section II. Bogota Wildlife Management Area Draw Hunts for Pools 2, 4, 5, 7, and 12. Hunting of waterfowl will be by computer draw and will occur on Fridays, Saturdays, and Sundays during the regular duck season except for opening weekends on which hunting will be Saturday and Sunday only. All hunting shall cease at 3:00 p.m. (CST) each day, except the last day of the season when hunting shall close at sunset.

Section III. Laurel Hill Lake. Duck and Goose season for Laurel Hill Lake is Saturday, Jan 13, 2007 through Sunday, Jan. 28, 2007. Hunting from temporary blind sites only (boat blinds allowed).

Section IV. Shooting Hours - From ½ hour before sunrise to sunset daily, for all species and seasons.

Section V. Bag and Possession Limits

A. Ducks and Mergansers

Daily Bag Limit - The Daily bag limit of ducks is 6, and may include no more than 4 mallards (no more than 1 of which may be a female), 1 black duck, 2 wood ducks, 1 pintail, 1 canvasback, 2 scaup, and 2 redheads.

The daily bag limit of merganser is 5, only 2 of which may be hooded mergansers.

Possession Limit:

The maximum number of birds that could have legally been taken in two (2) days.

	Daily Bag	Possession
B. Coots and Gallinules	15	30
C. Virginia and Sora Rails	25	25
D. Blue and Snow Geese	20	No Limit
E. White-fronted Goose	2	4
F. Brant	2	4
G. Canada Goose	2	4

Section VI. Repeal of Prior Proclamation

This proclamation repeals Proclamation No. 05-23, dated August 18, 2005.

Proclamation 06-20 received and recorded this 13th day of September, 2006, to become effective the 13th day of October, 2006. (09-05-06)



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 September 1, 2006 and ending September 29, 2006.

A handwritten signature in black ink that reads "Riley C. Darnell".

RILEY C. DARNELL
Secretary of State