

**RULES
OF
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES**

**CHAPTER 0400-40-17
CERTIFICATION OF QUALIFIED HYDROLOGIC PROFESSIONALS**

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0400-40-17-.01 MINIMUM QUALIFICATIONS.

- (1) Persons seeking to be certified by the department as Tennessee qualified hydrologic professionals must hold, at a minimum, a bachelor's degree in biology, geology, ecology, engineering, or related sciences, must have a minimum of five years relevant experience, and must successfully complete the Tennessee Hydrologic Delineation Class offered or accredited by the department.
- (2) Qualifying relevant experience is professional employment that includes regular, periodic fieldwork in biologic or hydrologic assessments of streams and wet weather conveyances. Every year of qualifying experience shall include at a minimum one wet weather conveyance determination.

Authority: T.C.A. §§69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed March 2, 2011; effective May 11, 2011.

0400-40-17-.02 APPLICATION FOR CERTIFICATION.

- (1) Persons may take the test offered for the certification program for qualified hydrologic professionals without seeking the certification; provided however, that if someone passes the test before they have the required experience and later wishes to use the results from that test to obtain certification, the date of that test or the latest refresher test may not be more than three years prior to the date of application for certification.
- (2) Persons seeking certification as a qualified hydrologic professional shall submit the following to the department's designee for the certification program prior to taking the test: a fully completed form developed by the department and signed under penalty of perjury that contains all information showing their qualifications, including the details of their educational degrees and professional experience including documentation or description of at least five hydrologic determinations.
- (3) In determining years of experience, the work done to meet any requirement for a bachelors level degree program does not qualify toward the five years of professional experience required for certification. However, relevant work experience obtained on summer employment, work study, or other employment that is not a degree requirement does qualify for such purposes.

Authority: T.C.A. §§69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed March 2, 2011; effective May 11, 2011.

0400-40-17-.03 MAINTENANCE AND REVOCATION OF CERTIFICATION.

- (1) Certificates will be valid for three years from issuance. Once a person has been certified by the department as a qualified hydrologic professional, he or she must successfully complete a refresher course offered by the department every three years in order to maintain such certification. Evidence of successful completion of a refresher course shall be submitted by the hydrologic professional with the application for renewal of a certificate at least 90 days before expiration of the certificate. A new certificate will not be issued without evidence of successful completion of a refresher course.
- (2) During the term of a certificate, the department may revoke the certification of any qualified hydrologic professional if it is determined that there is cause. Cause for decertification includes, but is not limited to, failure to timely and successfully complete any required refresher courses, submission to the department of materially false information, or repeated submission of reports in support of hydrologic determinations that contain significant failures to exercise the skills of a certified hydrologic professional in accordance with these rules and the Guidance for Making Hydrologic Determinations (Guidance) which contains the instructions and examples for proper application of these rules to situations in the field that has been developed pursuant to §69-3-107(25). Such revocation shall be sent to the hydrologic professional by certified mail. An appeal of a revocation will be heard by the board as a contested case under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301 et seq. A revocation by the Commissioner or by an order of the board will not become effective until the applicable period for filing an appeal from such action has passed without the filing of an appeal.
- (3) If a person's certification as a qualified hydrologic professional is revoked by the department, the person may appeal the revocation by filing a petition stating the reasons for disagreeing with the revocation with the board within 30 days of the date of receipt of the revocation.
- (4) When a person's certification as a qualified hydrologic professional has been revoked, he or she must again successfully complete the Tennessee Hydrologic Delineation Class offered or accredited by the department. However, the de-certified person may not re-apply to take the class for a period of one year after the certification has been revoked.

Authority: T.C.A. §§69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed March 2, 2011; effective May 11, 2011.

0400-40-17-.04 REQUIREMENTS FOR WET WEATHER CONVEYANCE DETERMINATION REPORTS.

- (1) A report regarding a wet weather conveyance determination submitted to the department by a person certified as a Qualified Hydrologic Professional (QHP) seeking to qualify for the treatment provided in §69-3-108(r) shall so state in bold print on the first page of the document and shall be sent to the appropriate field office of the department accompanied by the following documentation.
 - (a) A written and an electronic copy of the report. The report should include the name, address, and phone number of the current property owner(s), and the person or applicant who proposes to alter the watercourse (if different from the owner), and the name, affiliation, and certification identification number of the QHP submitting the report.
 - (b) A statement, signed by the certified QHP attesting that all submitted information is true, accurate and complete.

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- (c) An explanation of the purpose and context of the hydrologic determination report, including any proposed alterations to wet weather conveyances, streams, wetlands, or other aquatic resources.
 - (d) The identification of the starting and ending points along a watercourse of the areas determined to be a wet weather conveyance; such areas may not be larger than what is currently proposed to be altered by the proponent of project.
 - (e) A vicinity map, including the property boundaries or hydrologic determination review area (if different then property boundary). A color copy of the United States Geological Survey topographical map with an overlay of the property (development) boundary is preferred. On linear projects, start and terminus points are required. The map should clearly indicate the specific locations of all hydrologic features that are subjects of the provisions of §69-3-108(r) identified in the report. Specific latitude/longitude coordinates must either be included on the map or in the body of the hydrologic determination report.
 - (f) Color photographs of each of the hydrologic features to potentially be altered or otherwise identified in the report; including the date each photograph was taken, latitude and longitude, in decimal degrees of each photograph location and indicate the location and direction of each photographic view on the site map or plan. These photographs must be representative over the overall reach of water feature evaluated. At a minimum, include a photograph of the area to potentially be altered, immediately up channel of the area to potentially be altered, and immediately down channel.
 - (g) TDEC Hydrologic Determination Field Data Sheets, completed in conformance with the current TDEC-WPC Guidance for Making Hydrologic Determinations and Streams. At least one data sheet must be submitted for each watercourse to potentially be altered or identified.
 - (h) Any previous assessments of hydrologic features on site known to the submitter.
 - (i) Any other information used in making the hydrologic determinations included in the report. Examples include NRCS Soil Maps, local geological data, recent and seasonal precipitation gauge records, benthic surveys, etc.
 - (j) Recommended, but not required information includes:
 - 1. Site development (concept) plans and project name (separate sheet(s), if available);
 - 2. Close-contour survey maps;
 - 3. An aerial photo with an overlay of the property boundary;
 - 4. Municipal jurisdiction of the project site; and
 - 5. Location, dimensions, and type of sewage/septic system proposed if applicable.
- (2) When a person desiring to alter a specific water of the state requests a determination from the commissioner that the watercourse is a wet weather conveyance and submits a report from a certified QHP conducted in accordance with all requirements of the rules and guidance adopted pursuant to §69-3-105(m) and §69-3-107(25), and containing all of the information required by paragraph (1) of this rule, then the determination made in the report shall be presumed to be correct, unless the department notifies such person in writing, or by

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electronic mail, within thirty (30) days of the submittal of the report, that the department has affirmatively determined that there is a significant question about whether the water of the state in question is a stream or wet weather conveyance and states the reason(s) for that determination.

- (3) If the department has made such a determination that there is a significant question regarding such a submittal, then the department shall, within thirty (30) days following the date of such notification, determine whether the water of the state in question is a stream or wet weather conveyance, and notify such person in writing, or by electronic mail, of that decision and the reasons for that determination.
- (4) If the department rejects the hydrologic determination submitted by a certified QHP on behalf of a person desiring to alter a specific water of the state who has requested a determination from the commissioner that the watercourse is a wet weather conveyance, that person may appeal the department's determination that the specific water is a stream by filing a petition for appeal with the board within thirty (30) days of receiving the department's rejection.

Authority: T.C.A. §§69-3-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed March 2, 2011; effective May 11, 2011.