

G.O.C. STAFF RULE ABSTRACT

AGENCY: Commerce and Insurance

DIVISION: Fire Prevention

SUBJECT: Volunteer Firefighting Equipment / Training Grant Program

STATUTORY AUTHORITY: T.C.A. § 68-102-154 (2019) requires the Commissioner to promulgate rules to establish guidelines for evaluating grant requests and determine which volunteer fire departments will receive grants.

EFFECTIVE DATES: December 30, 2019 through June 27, 2020

FISCAL IMPACT: The rule may decrease local expenditures because the state funds allocated for this program are for the benefit of volunteer fire department operating across the state, and some local governments provide funding for equipment.

STAFF RULE ABSTRACT: This emergency rule establishes guidelines for evaluating grant requests and determines which volunteer fire departments will receive grants pursuant to T.C.A. § 68-102-154. This is a new rule after Public Chapter 497 (2019) created the volunteer firefighter equipment and training grant program. The rule explains the application process for the match portion of the grant and the equipment grant directly from the State Fire Marshal's Office. Further, the rule establishes a grant award selection committee requiring representation from each grand division.

NOTE: Rule not filed in redline form.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule may have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule establishes guidelines for evaluating grant requests and determine which volunteer fire departments will receive grants pursuant to T.C.A. 68-102-154. This is a new rule after Public Chapter 497 (2019) created the volunteer firefighter equipment and training grant program. The rule explains the application process for the match portion of the grant and the equipment grant directly from the State Fire Marshal's Office. Further, the rules establish a grant award selection committee requiring representation from each grand division.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. 68-102-154 (2019) requires the Commissioner of Commerce and Insurance to promulgate rules to establish guidelines for evaluating grant requests and determine which volunteer fire departments will receive grants.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Volunteer fire departments and the communities in Tennessee those departments serve. No volunteer fire department has expressed objection or urged rejection of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The rules may decrease local expenditures because the state funds allocated for this program are for the benefit of volunteer fire department operating across the state, and some local governments provide funding for equipment.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director of Programs and Policy Development
Greg Adams, Director of Education and Outreach

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary Farley, Assistant Commissioner for Fire Prevention
Mary Beth Gribble, Director of Programs and Policy Development
Greg Adams, Director of Education and Outreach

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway, Nashville, TN 37243

Gary Farley, Assistant Commissioner for Fire Prevention; 615-532-6391; gary.farley@tn.gov
Mary Beth Gribble, Director of Programs and Policy Development; 615-532-3272; marybeth.gribble@tn.gov
Greg Adams, Director of Education and Outreach; 615-532-5844; greg.adams@tn.gov

- (l) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 12-19-19
 Rule ID(s): 9288
 File Date: 12/30/19
 Last Effective Day: 6/27/20

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Division of Fire Prevention
Contact Person:	Leigh Ferguson
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-360-4465
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

On May 24, 2019, Governor Lee signed SB1395/HB518, which became Public Chapter 497, creating the Volunteer Firefighter Equipment and Training Grant Program. The Program establishes a fund for volunteer fire departments to use as their local match portion from federal grants for equipment and training and to create a state grant program awarding funds to volunteer fire departments for equipment to better protect volunteer firefighters and the communities they serve. The grant funds will become available after the program goes into effect on January 1, 2020. In Tennessee, there are 575 predominately volunteer fire departments operating across the state with 512 of that total being entirely volunteer fire departments. Further, volunteer fire departments provide fire suppression and life-saving assistance for ninety-two (92) counties and two hundred and seventy-two (272) municipalities; only Shelby County, Metro Davidson and Bradley County are protected by a career fire department. This grant money will improve access to equipment used to suppress fires and to protect life and property, particularly in the rural communities, and will enhance the safety of the 14, 213 volunteer firefighters who risk their lives to serve Tennesseans and visitors to this great state.

This rule is being filed pursuant to T.C.A. § 4-5-208(a)(4), which authorizes an emergency rule when the rule is required by an agency of the federal government, and if not enacted, may risk the loss of federal funding. If this rule is not enacted as an emergency rule, volunteer fire departments may lose federal funding dispersed by the Federal Emergency Management Agency (FEMA) through the Assistance to Firefighters Grant (AFG) that will provide life-saving training and equipment.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-02-24	Volunteer Firefighter Equipment and Training Grant Program
Rule Number	Rule Title
0780-02-24-.01	Definitions
0780-02-24-.02	Applications and Technical Requirements
0780-02-24-.03	Eligibility
0780-02-24-.04	Award Selections

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

The Department has drafted the rule below, as required by T.C.A. § 68-102-154, to determine which grants to award as part of the Volunteer Firefighter Equipment and Training Grant Program for the purchase of firefighting equipment or to meet the local match requirement for federal grants to purchase firefighting equipment and training.

**NEW RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

CHAPTER 0780-02-24

VOLUNTEER FIREFIGHTER EQUIPMENT AND TRAINING GRANT PROGRAM

TABLE OF CONTENTS

0780-02-24-.01	Definitions
0780-02-24-.02	Applications and Technical Requirements
0780-02-24-.03	Eligibility
0780-02-24-.04	Award Selections

0780-02-24-.01 Definitions

- (1) "Career Fire Department" means a fire department recognized by the State Fire Marshal's Office, pursuant to T.C.A. § 68-102-304, comprised of fifty-one percent (51%) or more firefighters employed on a full-time basis.
- (2) "Department" means the Tennessee Department of Commerce and Insurance.
- (3) "Federal grants" means any federal discretionary grant program that awards financial assistance to be used for the purpose of the purchase of firefighting equipment and training including, but not limited to, the Federal Emergency Management Agency Assistance to Firefighters Grants (AFG).
- (4) "Firefighting equipment" means the equipment used by a firefighter to contain or extinguish fires and to protect the life of the firefighter, other than fire trucks or vehicles.
- (5) "Grantee" means an individual or organization that has been awarded financial assistance under one of the federal discretionary grant programs including, but not limited to, AFG, or under the volunteer firefighter equipment and training grant program from the State Fire Marshal's Office.
- (6) "Matching funds" means the amount of a project that a grantee agreed to provide in return for being awarded a federal grant.
- (7) "Personal Protective Equipment (PPE)" means items compliant with the most current Occupational Safety and Health Administration (OSHA) or National Fire Protection Association (NFPA) standards to enhance the operational safety of the firefighter.
- (8) "State Fire Marshal" means the Commissioner of the Department of Commerce and Insurance, or designee.
- (9) "State Fire Marshal's Office" means the Division of Fire Prevention at the Department of Commerce and Insurance.

- (10) "Volunteer fire department" means a fire department recognized by the State Fire Marshal's Office, pursuant to T.C.A. § 68-102-304, and classified by the Tennessee Fire Incident Reporting System (TFIRS) as a volunteer fire department.
- (11) "Volunteer firefighter" means a duly appointed member of a fire department on either a non-pay or part-pay basis who is neither employed in a full-time capacity with the department nor eligible to receive the educational incentive pay issued pursuant to T.C.A. § 4-24-202 as a member of the department. Volunteer firefighters may receive life insurance, health insurance, workmen's compensation insurance, length of service awards, pay per-call or per-hour, or similar compensation.

Authority: T.C.A. § 68-102-154.

0780-02-24-.02 Applications and Technical Requirements

- (1) Fire department shall complete applications on forms provided by the State Fire Marshal's Office. The State Fire Marshal's Office will develop a form for the federal matching fund and a form for the firefighter equipment and training grant program. The application for the firefighter equipment and training grant program will include technical requirements established by the State Fire Marshal's Office to be used to determine grant recipients.
- (2) In addition to other technical requirements established by the State Fire Marshal's Office and published with the application, preference will also be given to the volunteer fire departments which:
 - (a) Comply with the fire reporting requirements pursuant to T.C.A. § 68-102-111;
 - (b) File an annual financial report with the Comptroller of the Treasury pursuant to T.C.A. § 68-102-309; and
 - (c) Meet the minimum training requirements established in T.C.A. § 4-24-112(a)-(e).
- (3) Application deadlines will be established annually by the State Fire Marshal's Office based on available funding and will be published on the Department's website.
- (4) The applications shall be reviewed in accordance with state law and contracting rules and procedures established by the Central Procurement Office at the Department of General Services.
- (5) Applications for matching funds to meet local match requirements for federal grants shall include a copy of the award letter of the federal grant for firefighting equipment.

Authority: T.C.A. §§ 68-102-154, 68-102-304, and 68-102-309.

0780-02-24-.03 Eligibility

- (1) To be eligible to receive an award for the volunteer firefighter equipment and training grant program or for the federal matching funds, a volunteer fire department shall:
 - (a) Be recognized by the State Fire Marshal's Office, pursuant to T.C.A. § 68-102-304; and
 - (b) Be classified as a volunteer fire department by the Tennessee Fire Incident Reporting System (TFIRS).

Authority: T.C.A. § 68-102-154.

0780-02-24-.04 Award Selections

- (1) The grant award selection committee shall be comprised of seven (7) members: three (3) representatives from the Tennessee Fire Chief's Association, three (3) representatives from the Tennessee Firemen's Association, and the Assistant Commissioner of Fire Prevention. The

representatives from the Associations shall be from the three (3) grand divisions of the state and shall serve for staggered terms not to exceed three (3) years.

- (2) The total amount of grants awarded annually must be divided equally among the three (3) grand divisions of the state.
- (3) The committee will prioritize awarding grants for matching funds.
- (4) The Commissioner shall endeavor to award all funds appropriated to the program each year, and any funds remaining will not revert to the general fund but will remain available for expenditure in subsequent fiscal years pursuant to T.C.A. § 68-102-154(d).

Authority: T.C.A. § 68-102-154.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

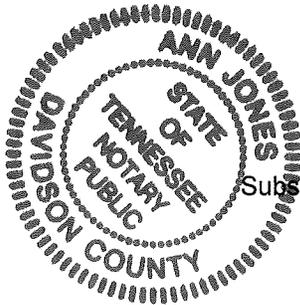
I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 12/30/19

Signature: *Hodgen Manda*

Name of Officer: Hodgen Manda

Title of Officer: Commissioner



Subscribed and sworn to before me on: December 20, 2019

Notary Public Signature: *Ann Jones*

My commission expires on: July 6, 2020

Agency/Board/Commission: Department of Commerce and Insurance: Division of Fire Prevention

Rule Chapter Number(s): 0780-02-24

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III by Linda Ross
 Herbert H. Slatery III *with delegated authority*
 Attorney General and Reporter
12/30/2019
 Date

Department of State Use Only

Filed with the Department of State on: 12/30/19

Effective for: 180 *days

Effective through: 4/27/20

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

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G.O.C. STAFF RULE ABSTRACT

AGENCY: Commerce and Insurance

DIVISION: Fire Prevention

SUBJECT: Certified Codes Inspectors Standards and Qualifications

STATUTORY AUTHORITY: Public Chapter 224 of 2019, which amends T.C.A. § 68-120-118

EFFECTIVE DATES: December 30, 2019 through June 27, 2020

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: Public Chapter 224 (2019) amended T.C.A. § 68-120-118 to require persons employed after January 1, 2020, as an electrical inspector with a municipality, county, or state government to obtain certification through the State Fire Marshal's Office.

The statute gives the Department of Commerce and Insurance rulemaking authority to establish standards and qualifications for certification.

The statute requires the rules to require proof that the candidate understands all applicable electrical codes.

These emergency rules specify that an electrical inspector can obtain certification through the International Code Council (ICC) or the International Association of Electrical Inspectors IAEI establish the application and renewal process, including the continuing education requirements.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The rule will impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 224 (2019) amended T.C.A. § 68-120-118 to require persons employed after January 1, 2020, as an electrical inspector with a municipality, county or state government to obtain certification through the State Fire Marshal's Office. The statute gives the Department of Commerce and Insurance rulemaking authority to establish standards and qualifications for certification. The statute requires the rules to require proof that the candidate understands all applicable electrical codes. The rules specify that electrical inspector can obtain certification through the International Code Council (ICC) or the International Association of Electrical Inspectors (IAEI) establish the application and renewal process, including the continuing education requirements.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 224 (2019) amending T.C.A. § 68-120-118

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Deputy Electrical Inspectors and electrical inspectors employed by local governments. The inspectors support adoption of the rule because it will make their certification process easier and less expensive.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Michael Morelli, Director of Electrical, Residential, and Marina Inspections Section and the Permits & Licensing Section, Department of Commerce and Insurance, Division of Fire Prevention
Mary Beth Gribble, Director of Fire Prevention Programs and Policy, Department of Commerce and Insurance

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gary Farley, Assistant Commissioner for Fire Prevention, Department of Commerce and Insurance
Mary Beth Gribble, Director of Fire Prevention Programs and Policy, Department of Commerce and Insurance

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

500 James Robertson Parkway
Nashville, TN 37243
Gary Farley; gary.farley@tn.gov; 615-532-6391

Mary Beth Gribble; Marybeth.gribble@tn.gov; 615-532-3272

(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

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Sequence Number: 12-18-19
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Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Division of Fire Prevention
Contact Person:	Leigh Ferguson
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-360-4435
Email:	Leigh.j.ferguson@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

Public Chapter 224 (2019) amended T.C.A. 68-120-118 to require persons employed after January 1, 2020, as an electrical codes inspector with a municipality, county, or state government to obtain certification through the State Fire Marshal's Office. The statute gives the Department of Commerce and Insurance rulemaking authority to establish standards and qualifications for certification. The statute requires the Department to draft these rules to require proof that the candidate understands all applicable electrical codes. The rules specify that electrical codes inspectors can obtain certification through the International Code Council (ICC) or the International Association of Electrical Inspectors (IAEI) establish the application and renewal process, including the continuing education requirements.

This rule is being filed pursuant to T.C.A. § 4-5-2-8(a)(5) which states that the agency is required by an enactment of the General Assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules. The department conducted a rulemaking hearing on October 18, 2019, and all public comments were supportive. The content of these rules is the same, but after filed, the rules will not become effective until after 90 days, and the statute becomes effective January 1, 2019. The Department has conducted a rulemaking hearing but is filing these emergency rules to have them in place by the effective date of the statute but before the permanent rules will be effective.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-02-16	Certified Codes Inspectors Standards and Qualifications
Rule Number	Rule Title
0780-02-16-.01	General Requirements
0780-02-16-.02	Definitions
0780-02-16-.03	Certification
0780-02-16-.04	Acceptable Standards, Organizations and Courses
0780-02-16-.05	Standards and Qualifications
0780-02-16-.06	Renewal of Certification

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Public Chapter 224 (2019) amended T.C.A. § 68-120-118 to require persons employed after January 1, 2020, as an electrical codes inspector with a municipality, county or state government to obtain certification through the State Fire Marshal's Office. These rules incorporate the electrical code inspectors into the existing codes inspectors rules. These rules also clarify that electrical codes inspectors will be required to obtain twenty-four (24) hours of continuing education credit, not thirty-six (36), as is their current requirement. These rules do not modify the fee schedule.

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

CHAPTER 0780-02-16

**FIRE PREVENTION, BUILDING, PLUMBING AND MECHANICAL INSPECTOR
CERTIFICATION STANDARDS AND QUALIFICATIONS
CERTIFIED CODES INSPECTORS STANDARDS AND QUALIFICATIONS**

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0780-02-16-.03	Certification		
0780-02-16-.04	Acceptable Standards, Organizations and Courses	0780-02-16-.08	Expedited Applications and Active Military Service
0780-02-16-.05	Standards and Qualifications		

0780-02-16-.01 GENERAL REQUIREMENTS.

- (1) The purpose of inspector certification is to establish uniform minimum requirements designed to increase the level of competency and reliability of code enforcement personnel, to the level that will enhance each local government's ability to protect the lives and property of its citizens from improper construction, fire, and related hazards.
- (2) All applications or documents for certification shall be submitted to the State Fire Marshal's Office. All applications for initial certification and recertification shall be completed, in full, on forms approved by the State Fire Marshal's Office.
- (3) The applicant for certification shall provide satisfactory proof to the State Fire Marshal, or designee, that the applicant understands applicable building, fire, plumbing, mechanical, electrical, or fuel gas codes, through the regulations established in Tenn. Comp. R. & Regs. 0780-02-16. Application matters not specifically addressed herein will be at the discretion of the State Fire Marshal, or designee.
- (4) When a certified codes inspector performs inspections pursuant to Tenn. Comp. R. & Regs. 0780-02-16, the codes inspector shall carry a certification identification card issued by the State Fire Marshal's Office. Specialties in which the inspector is authorized to perform codes inspections may be listed on the certification identification card.
- (5) Any new applicant for certification as a building, fire, plumbing, or mechanical codes inspector has up to twelve (12) months from the date of employment to satisfy the requirements for certification and submit the required application to the State Fire Marshal's Office. All requirements for certification shall be satisfied within the first twelve (12) months of employment or excused for just cause by the State Fire Marshal, or designee. A new applicant shall be eligible to utilize the twelve (12) month period only once, unless otherwise authorized by the State Fire Marshal, or

designee. An applicant to become an electrical codes inspector must be certified before conducting any codes inspections.

- (6) Municipalities and counties shall notify the State Fire Marshal's Office within sixty (60) days after any new codes inspector who is required to obtain certification is hired. The notice shall be on a form provided by the State Fire Marshal's Office for this purpose and shall contain the name of the newly hired codes inspector and the date of employment.
- (7) Persons who conduct fire prevention inspections or pre-fire planning inspections are not required to be certified unless part of their regular job duties also includes fire, building, plumbing, mechanical, electrical, or fuel gas code inspections.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendment filed September 25, 2009; effective February 28, 2010. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-02 DEFINITIONS.

- (1) "Building Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the adopted building code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the building code may be invoked.
- (2) "Building Code Inspector" means an individual who as part of his/her regular job duties performs building code inspections or resolves conflicts relative to application of the adopted building code. The inspector's status shall be determined by job duties rather than job title.
- (3) "Certification" means the designation and authorization conferred by the State Fire Marshal, or designee, on a municipal, county and state employed inspector, who has made application and provided the satisfactory requisite understanding of applicable building, fire, plumbing, mechanical, or fuel gas codes, to conduct or perform inspections and enforces adopted codes.
- (4) "Chapter" means Tenn. Code Ann. §§ 68-120-101, et seq.
- (5) "Continuing Education" means training courses related to the knowledge and enforcement of relevant code(s) and which are approved by the State Fire Marshal, or designee, for a designated specialty or specialties. The State Fire Marshal, or designee, shall specify the amount of credit hours awarded for approved training courses.
- (6) "Department" means the Tennessee Department of Commerce and Insurance.
- (7) "Electrical Code Inspection" means an inspection for the purpose of enforcing and determining compliance with adopted electrical code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of electrical code may be invoked.
- (8) "Electrical Code Inspector" means an individual who as a part of his/her job duties performs electrical code inspections or resolves conflicts relative to application of the adopted electrical code. The inspector's status shall be determined by job duties rather than job title.
- (79) "Fire Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the adopted fire code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the fire code may be invoked.
- (810) "Fire Code Inspector" means an individual who as part of his/her regular job duties performs fire code inspections or resolves conflicts relative to application of the adopted fire code. The inspector's status shall be determined by job duties rather than job title.
- (911) "Fire Prevention Inspection" means an inspection conducted by fire department personnel other than a fire code inspector. This inspection is advisory in nature (i.e. maintenance and

housekeeping) by the fire department personnel and may result in a fire code inspection.

- (102) "Mechanical Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the adopted mechanical or fuel gas code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the mechanical or fuel gas code may be invoked.
- (143) "Mechanical Code Inspector" means an individual who as part of his/her regular job duties performs mechanical or fuel gas code inspections or resolves conflicts relative to application of the adopted mechanical or fuel gas code. The inspector's status shall be determined by job duties rather than job title.
- (124) "Plumbing Code Inspection" means an inspection for the purpose of enforcing and determining compliance with the adopted plumbing code and as a result of which citations for failure to comply may be issued or other remedies or measures for enforcement of the plumbing code may be invoked.
- (135) "Plumbing Code Inspector" means an individual who as part of his/her regular job duties performs plumbing code inspections or resolves conflicts relative to application of the adopted plumbing code. The inspector's status shall be determined by job duties rather than job title.
- (146) "Pre-Fire Planning Inspection" means a walk-through inspection for the purpose of determining building layout and other building conditions to aid firefighters if a fire occurs.
- (157) "Specialty" or "specialties" means the designated field(s) of code(s) in which an inspector is certified and authorized to inspect, and which includes the following: Fire, Electrical, Building Commercial, Building Residential, Mechanical Commercial, Mechanical Residential, Plumbing Commercial and Plumbing Residential.
- (168) "State Fire Marshal" means the Commissioner of the Department of Commerce and Insurance.
- (189) "State Fire Marshal's Office" means the Division of Fire Prevention at the Department of Commerce and Insurance.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendments filed September 25, 2009; effective February 28, 2010. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.03 CERTIFICATION.

- (1) Any applicant seeking to obtain initial certification as a certified codes inspector may contact the State Fire Marshal's Office in Nashville or go to the department's website to acquire a copy of the required application form. An applicant shall submit a completed application form and eligibility verification form along with the required fee of forty-five dollars (\$45.00) to the State Fire Marshal's Office prior to obtaining certification.
- (2) An applicant shall submit proof of successfully completing a recognized and accepted training course provided by professional building codes organizations identified in Tenn. Comp. R. & Regs. 0780-02-16-.04, and/or examination approved and recognized by the State Fire Marshal, or designee, which tested knowledge and skills in the specialty or specialties in which the applicant seeks certification.
- (3) The State Fire Marshal's Office shall issue an initial certificate and identification card upon assurance that an applicant has satisfied all certification requirements in the specialty or specialties in which the applicant seeks certification. The certificate and identification card will be mailed to the applicant at the business address provided on the application and shall be valid for a period of three (3) years from the date of issuance.
- (4) Upon obtaining an additional specialty or specialties, a certified codes inspector may apply to

have the specialty or specialties added to his/her certificate and identification card for no additional fee. The certification with one or more newly added specialties will expire on the date of the original certification.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendment filed September 25, 2009; effective February 28, 2010. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.04 ACCEPTABLE STANDARDS, ORGANIZATIONS AND COURSES.

- (1) The State Fire Marshal, or designee, shall determine the acceptable requirements for certification and each specialty in which an inspector performs inspections.
- (2) The State Fire Marshal, or designee, shall recognize and accept certification from the following professional building codes organizations as providing the appropriate level of standards and qualifications necessary for certification:
 - (a) International Code Council (ICC);
 - (b) National Fire Protection Association (N.F.P.A.);
 - (c) International Association of Electrical Inspectors (IAEI);
 - (ed) Other appropriate professional building and fire code organizations recognized by the State Fire Marshal, or designee; or,
 - (de) Successful completion of an equivalent examination administered at the discretion of the State Fire Marshal, or designee.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.05 STANDARDS AND QUALIFICATIONS.

In order to enable applicants for certification the opportunity to acquire the knowledge and skills required to attain certification, the State Fire Marshal, or designee, shall establish or contract for training courses which meet the minimum standards and qualifications necessary for certification under this chapter. These training courses shall be made available to governmental employees and other individuals with building, fire safety, plumbing, electrical, mechanical, or fuel gas code inspection enforcement responsibilities.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, 68-120-113(f), 68-120-118, and 68-120-118(f). **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendment filed September 25, 2009; effective February 28, 2010. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.06 RENEWAL OF CERTIFICATION.

- (1) Certification is valid for three (3) years. To renew a certification, inspectors shall submit a completed renewal application along with a fee of thirty-five dollars (\$35.00) to the State Fire Marshal's Office. The State Fire Marshal's Office shall send each certified code inspector a renewal application for certification at least sixty (60) days prior to the date of expiration of the original certificate. The renewal application for certification will be mailed by the State Fire Marshal's Office to the last known business address, unless the inspector has requested otherwise.
- (2) Certified codes inspectors shall have up to sixty (60) days following the expiration of their certification to fulfill all requirements for renewal of certification. All applications for renewal of certification filed during this late period shall be accompanied by a late penalty fee of ten dollars (\$10.00) in addition to the certification fee of thirty-five dollars (\$35.00). Certifications

are invalid during this late period and inspections shall not be performed by the inspector until an application for renewal of certification is approved.

- (3) If the sixty (60) day late period has expired prior to an inspector fulfilling all requirements for renewal of certification, then the inspector shall apply for a new certification in accordance with T.C.A. §§ 68-120-113 and 68-120-118, and Tenn. Comp. R. & Regs. 0780-02-16.
- (4) Certified fire, building, plumbing or mechanical codes inspectors may renew certification as follows:
 - (a) Attendance and successful completion of State Fire Marshal, or designee, approved training courses which provide instruction related to an inspector's specialty or to the appropriate code(s) for the purpose of attaining credit for renewal of certification. Training courses should be approved in advance to receive credit; however, the State Fire Marshal, or designee, in his/her discretion, may approve a course and award specified hours of credit after it is given. Organizations are encouraged to submit courses to the State Fire Marshal's Office for approval at least fourteen (14) days prior to the scheduled date of the course. There is a minimum requirement of thirty-six (36) hours of continuing education during the three (3) year certification period in order to renew certification. Proof of completion of thirty-six (36) hours of continuing education within thirty-six (36) months prior to renewal of certification shall be submitted to the State Fire Marshal's Office. The State Fire Marshal's Office will not be responsible for training expenses incurred by inspectors.
 - (b) Successful completion of an examination administered at the discretion of the State Fire Marshal, or designee.
 - (c) Successful completion during the previous three (3) years of the next higher level of certification offered by a recognized and approved professional building codes organization listed in Tenn. Comp. R. & Regs. 0780-02-16-.04.
- (5) Certified electrical codes inspectors may renew certification as follows:
 - (a) Attendance and successful completion of State Fire Marshal, or designee, approved training courses which provide instruction related to electrical installations for the purpose of attaining credit for renewal of certification. Training courses should be approved in advance to receive credit; however, the State Fire Marshal, or designee, in his/her discretion, may approve a course and award specified hours of credit after it is given. Organizations are encouraged to submit courses to the State Fire Marshal's Office for approval at least fourteen (14) days prior to the scheduled date of the course. There is a minimum requirement of twenty-four (24) hours of continuing education during the three (3) year certification period in order to renew certification. Proof of completion of twenty-four (24) hours of continuing education within thirty-six (36) months prior to renewal of certification shall be submitted to the State Fire Marshal's Office. The State Fire Marshal's Office will not be responsible for training expenses incurred by inspectors.
 - (b) Successful completion of an examination administered at the discretion of the State Fire Marshal, or designee.
 - (c) Successful completion during the previous three (3) years of the next higher level of certification offered by a recognized and approved professional electrical codes organization listed in Tenn. Comp. R. & Regs. 0780-02-16-.04.

Authority: T.C.A. §§ 68-102-113, 68-120-106, 68-120-113, and 68-120-118. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Repeal and new rule filed August 22, 2008; effective November 5, 2008. Amendment filed September 25, 2009; effective February 28, 2010. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.07 DENIAL, SUSPENSION, OR REVOCATION OF CERTIFICATION.

- (1) The State Fire Marshal, or designee, may refuse to issue, renew, or deny any application for certification or recertification if the specified requirements have not been fulfilled.
- (2) The State Fire Marshal, or designee, may revoke, modify, suspend, or condition the certification of an inspector, if the State Fire Marshal, or designee, finds that the inspector has violated this chapter or any rule or regulation lawfully promulgated under this chapter, including, but not limited to:
 - (a) The requirements for certification had not been met prior to certification;
 - (b) Any continuing responsibilities associated with certification are not being fulfilled;
 - (b) The inspector is not properly enforcing the provisions of this chapter;
 - (c) Any fraud, collusion, misrepresentation, or substantial mistake was involved in the procurement of certification; or
 - (d) The inspector conducted an inspection on work performed or installations made by the inspector or by a member of the inspector's immediate family, or the inspector conducted an inspection on work performed or installations made by an entity or organization owned by the inspector or owned by any member of the inspector's immediate family.
- (3) The provisions of the Uniform Administrative Procedures Act, compiled in T.C.A. Title 4, Chapter 5, shall govern all matters concerning the hearing and judicial review of any contested case arising under this chapter and any applicable rules and regulations.

Authority: T.C.A. §§ 68-102-113, 68-120-106, and 68-120-113. **Administrative History:** Original rule filed July 28, 1993; effective October 11, 1993. Amendments filed December 19, 2017; effective March 19, 2018.

0780-02-16-.08 EXPEDITED APPLICATIONS AND ACTIVE MILITARY SERVICE.

- (1) An applicant for certification meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:
 - (a) Be issued a certification upon application and payment of all fees required for the issuance of such certification if, in the opinion of the State Fire Marshal, or designee, the requirements for certification of such other state are substantially equivalent to that required in Tennessee; or
 - (b) Be issued a temporary certification as described herein if the State Fire Marshal, or designee, determines that the applicant's certification does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including, but not limited to education, training, or experience, in order to meet the requirements for the certification to be substantially equivalent. The State Fire Marshal's Office may issue a temporary certification upon application and payment of all fees required for issuance of a regular certification of the same type which shall allow such person to perform services as if fully certified for a set period of time that is determined to be sufficient by the State Fire Marshal, or designee, for the applicant to complete such requirements.
 - (i) After completing those additional requirements and providing the State Fire Marshal's Office with sufficient proof thereof as may be required, a full certification shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary certification and an expiration date as if the full certification had been issued at that time.
 - (ii) A temporary certification shall be issued for a period no longer than the length of a renewal cycle for a full certification of the same type.
 - (iii) A temporary certification shall expire upon the date set by the State Fire Marshal's Office and shall not be subject to renewal except through the

completion of the requirements for substantial equivalency as required by the State Fire Marshal, or designee, or by an extension of time granted for good cause by the State Fire Marshal, or designee.

- (iv) Should an extension to a temporary certification cause the temporary certification to be in effect longer than the renewal cycle of a full certification, then the holder of the temporary certification shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the State Fire Marshal, or designee, for all other renewals of a full certification of the same type.
- (2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any certification issued by the State Fire Marshal's Office if such military education, training, or experience is determined by the State Fire Marshal, or designee, to be substantially equivalent to the education, training, or experience required for the issuance of such certification.
- (3) Any certified inspector who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose certification expires during the period of activation shall be eligible to be renewed upon the inspector being released from active duty without payment of late fees or other penalties.
 - (a) The certification shall be eligible for renewal pursuant to this subsection for six (6) months from the person's release from active duty.
 - (b) Any person renewing under this subsection shall provide the State Fire Marshal's Office such supporting documentation evidencing activation as may be required by the State Fire Marshal's Office prior to renewal of any certification pursuant to this chapter.

Authority: T.C.A. §§ 4-3-1304(d)(1), 8-120-118, 68-102-113, 68-120-106, 68-120-113, and 68-120-118.
Administrative History: Original rule filed December 19, 2017; effective March 19, 2018.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

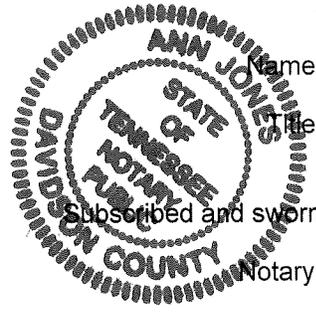
I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: 12/20/19

Signature: [Handwritten Signature]

Name of Officer: Hodgen Mainda

Title of Officer: Commissioner



Subscribed and sworn to before me on: December 20, 2019

Notary Public Signature: Ann Jones

My commission expires on: July 6, 2020

Agency/Board/Commission: Department of Commerce and Insurance: Division of Fire Prevention

Rule Chapter Number(s): 0780-02-16

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III by Linda Ross
 Herbert H. Slatery III *with*
 Attorney General and Reporter *delegated*
authority
12/30/2019
 Date

Department of State Use Only

Filed with the Department of State on: 12/30/19

Effective for: 180 *days

Effective through: 6/27/20

* Emergency rule(s) may be effective for up to 180 days from the date of filing.

[Handwritten Signature]
 Tre Hargett
 Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Wildlife Resources Agency

DIVISION: Boating and Law Enforcement

SUBJECT: Issuance of Warning Citations

STATUTORY AUTHORITY: There is no federal law or regulation or any state law or regulation mandating promulgation of the rule or establishing guidelines relevant thereto.

EFFECTIVE DATES: March 19, 2020 through June 30, 2021

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule makes the no wake zone on the Beech River as it flows into the Tennessee River a permanent no wake zone rather than a temporary no wake zone.

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments to the above-described rule.

Attached hereto are the responses to public comments.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

There are no businesses, small or otherwise, that would bear the cost of or directly benefit from the proposed rule.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Agency does not believe that the rule amendment/repeal will have any impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rule makes the no wake zone on the Beech River as it flows into the Tennessee River a permanent no wake zone rather than a temporary no wake zone.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

None.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule will not impact state or local revenues or expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Chris Richardson, Assistant Director TWRA

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Chris Richardson, Assistant Director TWRA

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

5107 Edmondson Pike, Nashville, TN 37211; 615-308-0477; chris.richardson@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

Department of State
Division of Publications
 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 12-15-19
 Rule ID(s): 9284
 File Date: 12/20/19
 Effective Date: 3/19/20

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Wildlife Resources Agency
Division: Boating and Law Enforcement
Contact Person: Chris Richardson
Address: 5107 Edmondson Pike, Nashville, TN,
 37211
Phone: 615-837-6016
Email: Chris.Richardson@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1660-02-07	Rules and Regulations Governing Operations of Vessels
Rule Number	Rule Title
1660-02-07-.22	Kentucky Lake

Amendment

1660-02-07-.22 KENTUCKY LAKE.

- (1) Vessels being operated on Ricketts Creek at river mile 126.5 on Kentucky Lake shall operate at a "slow-No Wake" speed from the mouth of Ricketts Creek through the waters extending west to a point of 100 yards west of the facilities operated by Ricketts' Creek Enterprises.
- (2) All vessels being operated from the mouth of Spring Creek, which is located at River Mile 133 on Kentucky Lake, shall operate at a "Slow-No Wake" speed into the creek for approximately 300 yards to 100 yards north and northeast of the Spring Creek Access Launching Ramp.
- (3) All vessels are prohibited in the Paris Landing State Park Swimming Area as delineated by a line of buoys located just southwest of the U.S. Highway 79 bridge near Tennessee River Mile 66.5 in Henry County.
- (4) All vessels being operated in the area of the confluence of the Beech River and Tennessee River (approximately Tennessee River Mile 135.7) upstream to the State Highway 100 bridge, as delineated by the appropriate buoys, shall operate at a "slow, no-wake" speed ~~from May 1st until the Saturday after Labor Day.~~

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

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Angie Box	✓				
Dennis Gardner	✓				
Jimmy Granbery	✓				
Kurt Holbert	✓				
Steve Jones				✓	
Connie King	✓				
Brian McLerran	✓				
Jim Ripley	✓				
Tony Sanders	✓				
James Stroud	✓				
Kent Woods	✓				
Tommy Woods	✓				
Hank Wright	✓				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish and Wildlife Commission (board/commission/ other authority) on 10/25/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/28/19

Rulemaking Hearing(s) Conducted on: (add more dates). 10/25/19



Date: October 25, 2019

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 10/23/2019

Notary Public Signature: Kimberly K. White

My commission expires on: 11/8/2022

Agency/Board/Commission: Tennessee Fish and Wildlife Commission

Rule Chapter Number(s): 1660-01-07

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

12/4/2019
Date

Department of State Use Only

Filed with the Department of State on: 12/20/19

Effective on: 3/19/20

Tre Hargett

Tre Hargett
Secretary of State

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Human Services

DIVISION: Vocational Rehabilitation Services

SUBJECT: General Rules, Administration

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-140-309(d)

EFFECTIVE DATES: March 17, 2020 through June 30, 2020

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rulemaking hearing rule revises the rules governing the Vocational Rehabilitation Services Division. The rulemaking hearing rules make amendments and implement new rules implementing the new background check requirements for Vocational Rehabilitation employees and contractors.

Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

No one from the public attended the public hearings concerning the above rules. There were no comments on the rules received either orally or in writing.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

For purposes of Acts 2007, Chapter 464, the Regulatory Flexibility Act, the Department of Human Services certifies that these rulemaking hearing rules do not appear to affect small businesses as defined in the Act.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules will have no projected financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The attached are rule revisions to the rules governing the Vocational Rehabilitation Services Division. The rules make amendments and implement new rules implementing the new background check requirements for Vocational Rehabilitation employees and contractors.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

N/A

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Vocational Rehabilitation employees and contractors; none of those contractors or employees commented on these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal fiscal state impact. Contractors are responsible for conducting background check investigations on their employees. The state costs associated with conducting background checks on impacted Department employees are estimated to be less than \$4,500 and, thus, do not exceed \$500,000 or 2% of the Department's annual budget.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Whitney Page, Assistant Commissioner, Public Information and Legislative Office

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Whitney Page, Assistant Commissioner, Public Information and Legislative Office

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

(I)

Whitney Page, Assistant Commissioner, Public Information and Legislative Office, 505 Deaderick Street, Nashville, TN 37243, 615-313-4707, Whitney.Page@tn.gov

- (J) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 12-11-19
Rule ID(s): 9282-9283
File Date: 12/18/19
Effective Date: 3/17/20

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Department of Human Services
Division: Vocational Rehabilitation Services
Contact Person: Mandy Johnson
Address: 505 Deaderick Street, Nashville, TN
Zip: 37243
Phone: 615-770-5496
Email: Mandy.1.Johnson@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1240-08-02	General Rules
Rule Number	Rule Title
1240-08-02-.02	Definitions

Chapter Number	Chapter Title
1240-08-03	Administration
Rule Number	Rule Title
1240-08-03-.05	Background Checks for Vocational Rehabilitation Employees, Contractors, and Interns

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
REHABILITATION SERVICES DIVISION**

**CHAPTER 1240-08-02
GENERAL RULES**

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1240-08-02-.02	Definitions	1240-08-02-.05	Legal Basis
1240-08-02-.03	Repealed		

1240-08-02-.02 DEFINITIONS.

The words and terms as used herein have the following meanings.

- (1) "Act" means the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. §§ 720 et seq. Words and terms defined in federal law and regulations are adopted by reference into these rules;
- (2) "Applicant" means an individual who applies to the Division for vocational rehabilitation services;
- (3) "Blind" means a person who had been determined to have not more than 20/200 vision acuity in the better eye with best correction, or an equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees;
- (4) "Combined/Unified State Plan" means the plan for vocational rehabilitation services submitted by the Division to the Rehabilitation Services Administration in compliance with Title I, Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014.
- (5) "Commissioner" means the executive head of the Department of Human Services;
- (6) "Competitive Integrated Employment" means work that:
 - (a) Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that:
 1. Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.S. 206 (a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment;
 2. Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and
 3. In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(Rule 1240-08-02-.02, continued)

4. Is eligible for the level of benefits provided to other employees; and
- (b) Is at a location:
1. Typically found in the community; and
 2. Where the employee with a disability interacts for the purpose of performing the duties of the position with the employees with the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g. customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interacts with these persons; and
- (c) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.
- (7) "Contributing Services" means services that help or cause to bring about the rehabilitation of an individual's functional limitations in order to achieve an employment objective, but do not include support services.
 - (8) "Counselor" means an employee of the Tennessee Division of Rehabilitation Services who is designated in the job description as a counselor;
 - (9) "Department" means the Tennessee Department of Human Services;
 - (10) "Designated State Unit" means the Division of Rehabilitation Services, which is primarily concerned with vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State's VR program;
 - (11) "Division" means the Division of Rehabilitation Services (the Division or DRS);
 - (12) "Employment Outcome" means entering or retaining full-time or, if appropriate, part-time competitive employment in an integrated labor market to the greatest extent practicable; that meets the definition for competitive integrated employment; including supported, customized and self-employment employment; or any other type of employment that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
 - (13) "Fair Hearing" shall mean a contested case proceeding before an impartial hearing officer designated by the Commissioner of the Department of Human Services who shall afford the individual and the Division, or their authorized representatives, the opportunity to present their case, with or without witnesses, to determine whether action or inaction by the county, area, regional, district, or state office is erroneous and should be corrected. Each party has an opportunity to disclose all relevant facts and issues, respond to and present evidence, conduct cross-examination, and submit rebuttal evidence as permitted under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301 et seq. Hearings may be conducted by telephone, television, or other electronic means, and shall be open to public observation unless otherwise provided by state or federal law. Hearings are conducted in accordance with the Uniform Administrative Procedures Act codified at T.C.A. § 4-5-101 et seq. An aggrieved party may obtain a review of any final order by appealing to chancery court in Davidson County, the county of the official residence of the commissioner, or the county where one or more of the petitioners resides, in accordance with T.C.A. § 4-5-322. If dissatisfied with the chancery court's decision, the individual may appeal further to the court of appeals of Tennessee, in accordance with T.C.A. § 4-5-323.

(Rule 1240-08-02-.02, continued)

- (14) "Individual" means a person who has been referred or has applied for services and/or determined eligible for and receives services from the Division;
- (15) "Maximum Effort" means a specific method or action to achieve a particular benefit to pay for specified rehabilitation services. It may consist of a set policy or process which may be applied in appropriate cases. For example, the Division could have a cooperative agreement with State university officials for financial assistance officers to interview and evaluate the financial need of all Division of Rehabilitation Services sponsored students;
- (16) "Qualified Personnel" means personnel possessing those specific qualifications and/or credentials for persons providing a function for which such qualifications are required;
- (17) "Recipient" means an individual that is receiving Pre-Employment Transition Services. This individual is eligible or potentially eligible for VR services.
- (18) "Student with disability" means an individual with a disability who is no younger than 14 and no older than 22. The individual must be participating in an educational program.
- [(19) "Unsupervised access" means the right or ability of a person to be left alone with funds, personal property, or personal identification information of a VR client or program participant with no other adults present and includes those whose employment duties include direct supervisory responsibility for individuals with such access.
- (20) "Unsupervised contact" means the right or ability of a person to meet with or be left alone with a VR client or program participant one-on-one with no other adults present and includes those whose employment duties include direct supervisory responsibility for such individuals.
- (21) "Vocational Rehabilitation Program" means the publically funded program authorized by the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014, 29 U.S.C. §§ 720 et seq. including: the Tennessee Business Enterprise (TBE), the Tennessee Rehabilitation Center (TRC), the Community Tennessee Rehabilitation Centers (CTRC), Independent Living (IL) and those funded wholly or in part through this authorization to provide employment related services consistent with the abilities, skills and interest of individuals with disabilities in a competitive, integrated setting.]
- (19[22]) "Youth with disability" means an individual with a disability who is no younger than 14 and no older than 24. The individual may or may not be participating in an educational program.

Authority: T.C.A. §§ 4-5-202, 4-5-301, et seq., 49-11-601, et seq., 71-1-104, and 71-1-105(12); 29 U.S.C. §§ 720, et seq.; 34 C.F.R. Part 361; 34 C.F.R. §§ 370.1, et seq.; and Executive Order No. 43.
Administrative History: Original rule filed September 30, 1985; effective October 30, 1985. Amendment filed July 12, 2002; effective September 25, 2002. Repeal and new rule filed June 30, 2009; effective September 13, 2009. Amendment filed November 10, 2009; effective April 30, 2010. Amendments filed October 5, 2017; effective January 3, 2018.

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
DIVISION OF REHABILITATION SERVICES**

**CHAPTER 1240-08-03
ADMINISTRATION**

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	[1240-08-03-.05 Background Checks for Vocational Rehabilitation Employees, Contractors, and Interns]

[1240-08-03-.05 BACKGROUND CHECKS FOR VOCATIONAL REHABILITATION EMPLOYEES, CONTRACTORS, AND INTERNS.

- (1) Background Check Requirements for Vocational Rehabilitation Employees and Interns.
 - (a) In accordance with 34 U.S.C. § 40102(a)(1) and T.C.A. § 4-3-1208, all current and prospective Vocational Rehabilitation (VR) employees and interns with unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties include direct responsibility for such individuals shall be subject to background checks for the purpose of determining whether the individual has a history of any criminal activity, abuse, neglect, or exploitation that could pose a risk to the safety and well-being of persons served by VR.
 - (b) All current and prospective VR employees and interns with unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties include direct responsibility for such individuals must:
 1. Agree to the release and disclosure to the Department of the background information and records from any reputable source, including federal, state and local governments, the Tennessee Bureau of Investigation (TBI), and any private investigation company licensed by the State of Tennessee; and
 2. Supply a fingerprint sample and submit to a state criminal history background check and investigation to be conducted by the TBI and a national criminal history background check and investigation to be conducted by the Federal Bureau of Investigation (FBI).
 - (c) The cost of any background check conducted pursuant to this policy shall be paid by the Department.
 - (d) If an employee or prospective employee does not consent to the required background check and investigation, he or she may be deemed ineligible for employment with the Department.
- (2) Review of Findings from Criminal Background Checks.
 - (a) All background investigation results from the TBI shall be sent to the Department's background check unit and reviewed to determine whether the current or prospective employee, intern, or contract worker has a history of criminal convictions that could pose a safety risk for individuals receiving VR services.

(Rule 1240-08-03-.05, continued)

- (b) An individual may not be eligible for a position whose duties include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties include direct responsibility for such individuals if a background investigation finds any conviction, including but not limited to the following offenses (including convictions for equivalent offenses in other states or jurisdictions):
 - 1. The physical, sexual or emotional abuse or neglect of a child or vulnerable person;
 - 2. A crime of violence against a child or any person;
 - 3. Any offense that presents a threat to the health, safety or welfare of children or vulnerable persons; or
 - 4. A felony conviction involving a crime of dishonesty or fraud within the past ten (10) years.
 - (c) A criminal background check shall be conducted on all prospective employees and interns with unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties include direct responsibility for such individuals prior to the commencement of work. In no event shall a person have unsupervised contact with an individual served by VR until the criminal background check has been completed.
 - 1. After the Department offers a Conditional Offer of Employment, the applicant or transferring employee must submit to a fingerprint background check at a Department-approved site.
 - 2. The background check will be completed prior to hire and results maintained in the Department's official background check system. A copy of the Findings/No Findings letter will be placed in the personnel file.
- (3) Current Vocational Rehabilitation Employees and Interns.
- (a) Current VR employees in positions identified as having duties that include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties include direct responsibility for such individuals must comply with the investigation requirement as directed by their supervisor as a basis for continued employment in the position.
 - 1. Employees with convictions as provided in Rule 1240-08-03-.05(2)(b) above may be deemed ineligible for employment.
 - 2. Employees who refuse to complete the fingerprint background checks or do not get fingerprinted during the allotted time may be deemed ineligible for employment.
 - (b) Current VR employees and interns whose current position does not provide an opportunity for unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties do not currently include direct responsibility for such individuals must have a criminal background check conducted before a change of responsibilities or positions to those that include such contact, access, or responsibility

(Rule 1240-08-03-.05, continued)

for such individuals.

- (4) Alleged Errors in Background Check.
 - (a) The Department does not provide the applicant, employee, or intern a copy of the FBI criminal history record. He or she may obtain a copy of the record by submitting fingerprints and a fee to the FBI. Information regarding this process may be obtained at <https://www.fbi.gov/services/cjis/identity-history-summary-checks>. If he or she believes the FBI's findings contain inaccurate or incomplete information, they may contact the FBI to challenge the findings.
- (5) Vocational Rehabilitation Employees and Interns Reporting Requirements.
 - (a) Any VR employee or intern who is cited, arrested, or convicted of a crime as provided in Rule 1240-08-03-.05(2)(b) shall report this information to the investigative unit within forty-eight (48) hours of the event. The Department's background check unit will share this information with the employee's or intern's direct supervisor if the event equates to a disqualifying offense.
 - (b) Failure of a VR employee or intern to report a citation, arrest, or conviction as provided in Rule 1240-08-03-.05(2)(b) may result in disciplinary action, up to and including termination.
 - (c) It is the responsibility of the direct supervisor or manager to report information obtained under Subparagraph (a) to the Department's Director of Human Resources and to the Department's Division of Rehabilitation Services' Director of Operations.
 - (d) After obtaining all available information, including any reports or other documentation, the supervisor, in consultation with the Director of Human Resources or designee and the Department's Division of Rehabilitation Services' Director of Operations, may recommend any disciplinary action deemed appropriate under the circumstances for a VR employee or intern, up to and including termination.
- (6) Contract Vocational Rehabilitation Workers.
 - (a) In accordance with 34 U.S.C. § 40102(a)(1) and T.C.A. § 4-3-1208, all VR contractors and any subcontractors, employees, or interns of those contractors whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals shall be subject to background checks for the purpose of determining whether the individual has a history for any criminal activity, abuse, neglect, or exploitation that could pose a risk to the safety and well-being of individuals served by VR.
 - (b) All VR contractors and any subcontractors, employees, or interns of those contractors whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals must agree to the release and disclosure to the contracting agency of their background information and records from any reputable source, including federal, state, and local governments, the Tennessee Bureau of Investigation (TBI), and any private investigation company licensed by the State of Tennessee.
 - (c) The cost of any background check conducted pursuant to this policy shall be paid by the contractor, unless otherwise specified by contract.

(Rule 1240-08-03-.05, continued)

- (d) The contractor shall review all background check results so that individuals in positions whose duties will include unsupervised contact with persons served by VR, unsupervised access to the funds, personal property, or personal identification information of persons served by VR, and those whose duties will include direct responsibility for such individuals have passed the background check requirements and have no convictions as provided in Rule 1240-08-03-.05(2)(b).
- (e) The background check for prospective employees or interns shall be completed before entering into employment with the VR contractor or subcontractor. A copy of the background check findings shall be placed in the personnel file of the contracting agency's employee and, upon request, a copy of the letter shall be sent to the Department.
- (f) The background check shall be completed for current employees or interns as a condition for maintaining employment with the VR contractor or subcontractor. A copy of the background check findings shall be placed in the personnel file of the contracting agency's employee and, upon request, a copy of the letter shall be sent to the Department.
- (g) The provisions of this Paragraph do not apply to contracts entered into prior to the effective date of this Rule unless previously provided for by contract.]

Authority: T.C.A. § 4-3-1208; 34 U.S.C. § 40102(a)(1).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Human Services (board/commission/ other authority) on 11/25/2019, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/14/19

Rulemaking Hearing(s) Conducted on: (add more dates). 08/05/19

Date: 11-25-19

Signature: Cherrell Campbell-Street

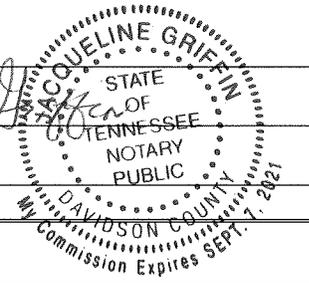
Name of Officer: Cherrell Campbell Street

Title of Officer: Deputy Commissioner, Programs and Services

Subscribed and sworn to before me on: 11/25/2019

Notary Public Signature: Jacqueline Griffin

My commission expires on: 09/07/2021



Agency/Board/Commission: Department of Human Services

Rule Chapter Number(s): 1240-08-02, 1240-08-03

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slaty III

Herbert H. Slaty III
Attorney General and Reporter

12/13/2019
Date

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Filed with the Department of State on: 12/18/19

Effective on: 3/17/20

Tre Hargett

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Emergency Medical Services Board

SUBJECT: Community Paramedicine

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-140-309(d)

EFFECTIVE DATES: March 15, 2020 through June 30, 2020

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This proposed rule sets out the basic requirements that must be met in order to be enrolled in a community paramedic program, to be approved as a community paramedic program, and to be endorsed as a community paramedic.

Specifically, this proposed rule addresses: Purpose; Scope of Practice; Definitions: Community Paramedic Applicant Requirements; Endorsement Renewal, Retirement, Reactivation, and Reinstatement; Community Paramedic Training Programs- Requirements for Approval; Community Paramedic Training Programs – Types of Approval; Renewal; and Mobile Integrated healthcare Programs – Approval.

NOTE: Rule not submitted in redline form.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.

The proposed rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

(2) Clarity, conciseness, and lack of ambiguity in the rule or rules.

The proposed rules are clear, concise and free of ambiguity.

(3) The establishment of flexible compliance and/or reporting requirements for small businesses.

The requirements set by these rules include the requirements in Public Chapter 370, passed in May 2017, and would only apply to those academic institutions and other entities that choose to offer the community paramedic educational program and/or operate a mobile integrated healthcare program in which community paramedic services are offered.

(4) The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.

There are some compliance standards for academic programs and other entities that choose to offer a mobile integrated healthcare/community paramedicine program. These standards are intended to insure that those individuals holding a community paramedic endorsement meet the basic qualifications and that those organizations offering community paramedic services within a mobile integrated healthcare program meet minimum standards.

(5) The consolidation or simplification of compliance or reporting requirements for small businesses.

The proposed rules create new compliance requirements for academic institutions and other entities that choose to offer the community paramedic educational program as well as compliance requirements for those ambulance services and licensed healthcare organizations that choose to offer community paramedic services within a mobile integrated healthcare program.

(6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule.

The proposed rules establish minimum standards for academic institutions and other entities that choose to offer a community paramedic educational program as well as for those ambulance services and licensed healthcare organizations that choose to offer community paramedic services within a mobile integrated healthcare program.

(7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The proposed rules do not create any entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs. These rules create compliance standards for academic programs and other entities that choose to offer a mobile integrated healthcare/community paramedicine program. These standards are intended to insure that those individuals holding a community paramedic endorsement meet the basic qualifications and that those organizations offering community paramedic services within a mobile integrated healthcare program meet minimum standards.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Emergency Medical Services Board

- 1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

The proposed rules would affect those current academic institutions (there are 14) and 4 fire departments that currently offer EMS education and choose to offer additional courses so that students may obtain the community paramedic endorsement. Additionally, it is anticipated that ambulance services (there are currently about 180) and hospitals may request approval for community paramedic programs and/or may request approval to offer community paramedic services within a mobile integrated healthcare program. The institutions/entities would bear the cost of implementing a mobile integrated healthcare/community paramedic program and complying with the proposed rules.

- 2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

Any reporting, recordkeeping and other administrative costs will be related to offering the community paramedic courses and/or offering community paramedic services as part of a mobile integrated healthcare program. This amount would vary by academic institution and/or entity. No professional skills are required to comply with the proposed rules.

- 3. Statement of the probable effect on impacted small businesses and consumers:**

Mobile integrated healthcare/community paramedicine will expand the scope of services of a licensed paramedic with the additional community paramedicine endorsement. Ambulance services and licensed healthcare organizations with community paramedics as employees would be able to offer expanded services, which could lead to increased reimbursement for services provided. The availability of community paramedics will expand access to care for consumers, particularly those consumers that live in rural areas with limited access to healthcare services.

- 4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rules.

- 5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: No counterpart

State: Thirty-three (33) states and the District of Columbia have mobile integrated healthcare/community paramedicine programs, whether by statute or as pilot programs. All are similar.

- 6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

Whether an academic institution, ambulance service, or other entity offers a mobile integrated healthcare program and/or a community paramedic program is voluntary. Allowing ambulance services to employ community paramedics who are not properly educated and trained according to the rules would defeat the purpose of the rule, which is to expand access to quality healthcare services. Quality healthcare requires practitioners who are appropriately educated and trained.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules should have a positive impact on local governments (i.e. county governments) that operate ambulance services and choose to offer a community paramedic educational program and/or hire licensed community paramedics as part of a mobile integrated healthcare program.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This new rule chapter sets out the basic requirements that must be met in order to be enrolled in a community paramedic program, to be approved as a community paramedic program, and to be endorsed as a community paramedic.

Specifically, this new rule chapter addresses: Purpose; Scope of Practice; Definitions; Community Paramedic Applicant Requirements; Endorsement Renewal, Retirement, Reactivation, and Reinstatement; Community Paramedic Training Programs – Requirements for Approval; Community Paramedic Training Programs – Types of Approval; Renewal; and Mobile Integrated Healthcare Programs – Approval.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 68-140-309(d).

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Emergency Medical Services community is awaiting promulgation of these rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

N/A

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Kyonzte Hughes-Toombs, Deputy General Counsel, Department of Health.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kyonzte Hughes-Toombs, Deputy General Counsel, Department of Health.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243, (615) 741-1611, kyonzte.hughes-toombs@tn.gov.

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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Sequence Number: 12-08-19
 Rule ID(s): 9281
 File Date: 12/16/19
 Effective Date: 3/15/20

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Emergency Medical Services Board
Division:	
Contact Person:	Kyonzte Hughes-Toombs, Deputy General Counsel
Address:	665 Mainstream Drive, Nashville, Tennessee
Zip:	37243
Phone:	(615) 741-1611
Email:	Kyonzte.hughes-toombs@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-12-07	Community Paramedicine
Rule Number	Rule Title
1200-12-07-.01	Purpose
1200-12-07-.02	Scope of Practice
1200-12-07-.03	Definitions
1200-12-07-.04	Community Paramedic Applicant Requirements
1200-12-07-.05	Endorsement Renewal, Retirement, Reactivation, and Reinstatement
1200-12-07-.06	Community Paramedic Training Programs – Requirements for Approval
1200-12-07-.07	Community Paramedic Training Programs – Types of Approval; Renewal
1200-12-07-.08	Mobile Integrated Healthcare Programs – Approval

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to

http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Chapter 1200-12-07
Community Paramedicine
New Chapter

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1200-12-07-.06 Community Paramedic Training Programs – Requirements for Approval
1200-12-07-.07 Community Paramedic Training Programs – Types of Approval; Renewal
1200-12-07-.08 Mobile Integrated Healthcare Programs – Approval

1200-12-07-.01 Purpose

The purpose of mobile integrated healthcare is to focus on patient-centered navigation by integrating existing infrastructure and using emergency care resources more efficiently, and to improve access to primary care for medically underserved populations. As a vital component of mobile integrated healthcare, community paramedics will work with EMS services and other healthcare and social service providers to address specific local problems in the out-of-hospital environment. Community Paramedics are licensed EMS professionals that complete a formal standardized educational program approved by the EMS Board. The Community Paramedic has demonstrated competence in the provision of health education, monitoring, and services beyond the roles of traditional emergency care and transport and works in conjunction with medical direction.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.02 Scope of Practice

A community paramedic is an experienced paramedic who has received additional training through a standardized curriculum, to serve communities more broadly in the areas of, primary care, public health, disease management, prevention and wellness, mental health and oral health. A community paramedic's scope of practice includes, at a minimum, all basic knowledge and skills of a paramedic as well as the psychomotor skills set identified in the current National EMS Scope of Practice Model and National EMS Education Standards for a Paramedic. Community paramedics are not independent practitioners and must practice under the supervision of an entity with an approved integrated healthcare program. The community paramedic's duties and scope of services shall be determined by local protocols established by the medical director as defined in 1200-12-07-.03. Community paramedics are subject to the same standards prohibiting unethical practices and conduct as all other emergency medical services personnel as outlined in 1200-12-01-.17.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.03 Definitions

- (1) Definitions. Within these rules, the following terms shall apply:
- (a) "Approved Program" means a Community Paramedic training program approved by the Tennessee Emergency Medical Services Board;
 - (b) "Board" means the Tennessee Emergency Medical Services Board;
 - (c) "Community Paramedic" means an individual who:
 - 1. Is licensed as a paramedic that delivers care in emergency and non-urgent pre-hospital settings with oversight of a physician;

2. Has received specialized training in physiology, disease processes, injury and illness prevention, and medical system navigation, in addition to general paramedic training; and
 3. Meets the requirements for additional endorsement as a community paramedic as established by the Board;
- (d) "Community Paramedicine" means the practice by emergency medical services personnel, primarily in an out-of-hospital setting, that may include the provisions of such services as patient evaluation, advice, treatment directed at preventing or improving a particular medical condition, or referrals to other community resources, which may be provided occasionally or at irregular intervals;
 - (e) "Medical Control" means the instruction, advice, or orders given by a physician in accordance with locally or regionally approved protocols related to the practice of a community paramedic;
 - (f) "Medical Director" means an individual who has an active, unencumbered license to engage in the practice of medicine pursuant to Title 63, Chapter 6 or Chapter 9, who is knowledgeable of the mobile integrated healthcare program, and provides medical advice, direction, oversight, quality assurance and authorization to the community paramedicine personnel within a board-approved program;
 - (g) "Mobile integrated health care" (MIHC) means the provision of health care using patient-centered, mobile resources in the out-of-hospital environment under local medical control as part of a community-based team of health and social services providers to include, but not be limited to, home health organizations and community paramedics.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.04 Community Paramedic Applicant Requirements

- (1) Persons seeking endorsement as Community Paramedics in Tennessee shall:
 - (a) Comply with all rules governing paramedics under Chapter 1200-12-01;
 - (b) Hold a current, unencumbered Tennessee paramedic license with at least five years of work experience as a paramedic with an advanced life support EMS service;
 - (c) Using the prescribed form, complete and submit a Community Paramedic endorsement application accompanied by the Application Fee and Initial Endorsement Fee as outlined in 1200-12-07-.05(4) to the Division;
 - (d) Complete a Board-approved Community Paramedic Training Program;
 - (e) Demonstrate specialized training in physiology, disease processes, injury and illness prevention, and medical system navigation, in addition to general paramedic training;
 - (f) Pass a Board-approved Community Paramedic endorsement examination with a passing score as established by the Board, subject to the following:
 1. Anyone who fails the examination three (3) times within two (2) years of completing a Board-approved Community Paramedic Training Program must show remediation from such program before they may take the examination again. After showing remediation, each person may take the examination up to three (3) more times within two (2) years of completing a Board-approved Community Paramedic Training Program.
 2. Anyone who fails the examination six (6) times within two (2) years of completing a Board-approved Community Paramedic Training Program, or for any reason fails to be endorsed as a Community Paramedic within two (2) years of completing a Board-

approved Community Paramedic Training Program, must repeat all of their Community Paramedic training before they may take the examination again;

- (g) Cause the result of a criminal background check to be submitted directly from the vendor identified in the Division's endorsement application materials to the administrative office of the Division. Such criminal background check shall include the sex offender and abuse registries for states in which the prospective student has lived during the previous seven (7) years. Persons whose names appear on either registry are not eligible for Community Paramedic endorsement. Such result shall be valid for one (1) year from the date it is received by the Division;
- (2) Persons completing a Community Paramedic Training Program prior to the effective date of these rules may apply for endorsement, pending the rules becoming effective. Applicants must show documentation of completing a Community Paramedic Training Program that meets the Board-approved Community Paramedic curriculum, and must complete the qualifying examination referred to above;
- (3) Only graduates of Tennessee Board-approved programs or those who have completed an equivalent curriculum in other states, as determined by the Board or the Division, are eligible for State community paramedic endorsement.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.05 Endorsement Renewal, Retirement, Reactivation, and Reinstatement.

- (1) Renewal of a community paramedic endorsement must be obtained every two years and is contingent on meeting the following requirements:
 - (a) Complying with all rules governing paramedics under Chapter 1200-12-01, including, but not limited to, Rule 1200-12-01-.04(1)(e), which establishes the scope of practice for paramedics and requires that all patient care provided by paramedics be under medical direction;
 - (b) Having a current, unencumbered paramedic license;
 - (c) Paying the applicable fees as outlined in 1200-12-07-.05(4); and
 - (d) Obtaining ten (10) continuing education contact hours in mobile integrated healthcare topics within the two-year period preceding renewal of the endorsement. Such hours are required in addition to the continuing education hours required for any other endorsement/license.
- (2) Retirement of an Endorsement
 - (a) A licensee may retire a community paramedicine endorsement by meeting the requirements found in Rule 1200-12-01-.04(7)(a); and
 - (b) A licensee requesting reactivation of a retired endorsement shall meet the requirements of Rule 1200-12-01-.04(4)(d) and (8), and pay the Reactivation/Reinstatement Fee as outlined in Rule 1200-12-07-.05(4)(d).
- (3) Reinstatement of an Expired/Lapsed Endorsement
 - (a) A licensee requesting reinstatement of an expired/lapsed endorsement shall pay the Reactivation/Reinstatement Fee in addition to the renewal fee;
 - (b) To reinstate an endorsement that has lapsed over sixty (60) days but less than two (2) years, a licensee must meet the requirements found in Rule 1200-12-01-.04(4)(d); and
 - (c) To reinstate an endorsement that has lapsed over two (2) years, a licensee must meet the requirements found in Rule 1200-12-01-.04(4)(d) and must reenroll in and complete a Board-approved community paramedicine training program.

(4) Community Paramedic - Fees for initial endorsement, renewal, reactivation, and reinstatement shall be remitted as follows:

(a)	Application Fee and Initial Endorsement Fee	\$75.00	\$75.00
(b)	Renewal Fee		\$90.00
(c)	Late Fee (if renewal submitted within sixty (60) days of the date of renewal and renewal requirements were met prior to the renewal date)		\$25.00
(d)	Reactivation/Reinstatement Fee		\$100.00

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.06 Community Paramedic Training Programs – Requirements for Approval

(1) In order to be a Board-approved Community Paramedic Training Program, the program shall:

- (a) Have a written statement of the educational philosophy and purpose of the program;
- (b) Maintain a written agreement with hospitals and/or agencies that are capable of supporting Community Paramedic clinical training;
- (c) Have a physician with an unencumbered Tennessee license to practice medicine who serves as medical director;
- (d) Ensure that the program's funding, equipment, facilities and leadership are adequate for a sound educational program;
- (e) Ensure that students who complete the program are competent, and support students taking endorsement examinations;
- (f) Be effectively organized and well-administered;
- (g) Utilize faculty that are experienced in the subject matter of the courses they teach, including but not limited to community health, home health, mental health, hospice, and other specialty areas;
- (h) Evaluate teacher effectiveness according to criteria established by the program;
- (i) Maintain an appropriate instructor/student ratio;
- (j) Maintain the following records:
 - 1. A copy of the program's complete curriculum;
 - 2. Statements of course objectives for each course;
 - 3. Copies of course outlines, class schedules, schedules of supervised clinical experience, and teaching plans;
 - 4. Evidence of student competency in achieving the educational objectives of the program;
- (k) Maintain the following student admission requirements:
 - 1. Have five years' experience as a paramedic with an advanced life support EMS service;
 - 2. Hold an unencumbered paramedic license;

3. Cause a letter of recommendation to be submitted directly from the applicant's employer to the program. If the applicant is unemployed, the applicant must cause two letters of recommendation to be submitted directly from former employers and/or supervisors to the program. Such letter(s) shall specify the applicant's title, duties and dates of employment, and shall attest to applicant's character;
 4. Undergo a criminal background check, to be requested by the program, to include the sex offender and abuse registries for states in which the prospective student has lived during the previous seven (7) years. Persons whose name appears on either registry are not eligible for admission to a Board-approved Community Paramedic program;
- (l) Comply with the Board-approved standards posted on the educational program section of the Board's website, as well as any applicable Board rules.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.07 Community Paramedic Training Programs – Types of Approval; Renewal

- (1) The Board may approve or deny approval of Community Paramedic training programs as follows:
- (a) Initial approval may be granted for a period of one (1) year to a new program that has not been in operation long enough to complete its first class, but has otherwise demonstrated its eligibility for full approval: The program shall be reviewed after one year or when its first students complete the program, whichever comes first. A program's failure to meet the requirements for full approval after such time is grounds for denying full approval;
 - (b) Full approval may be granted for a period of five (5) years to a program that has met the applicable requirements;
 - (c) Conditional approval may be granted to a program that has failed to meet the applicable requirements and has been notified that it must meet the requirements within a specified time period.
- (2) Renewal of approval shall be made by the Board on the recommendation of the Division, based on surveys, site visits, conferences, a review of documentation, the program's instructor/student ratio and instructor qualifications, and by compliance with this Chapter.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

1200-12-07-.08 Mobile Integrated Healthcare Programs – Approval

- (1) Approval
- (a) An ambulance service or licensed healthcare organization wishing to establish a mobile integrated healthcare program must submit the following to the Division for approval:
 1. A completed application
 2. A letter from the medical director who has agreed to provide medical advice, direction, oversight, quality assurance, and authorization to the community paramedic personnel within an approved program.
 - (b) MIHC program approval is not transferable or assignable.
 - (c) In the event that deficiencies are noted after submission of a completed application, the applicant shall submit a plan of corrective action to the Division. Once the deficiencies have been corrected, the Division shall reconsider the application for approval.

- (d) Changes of address, insurance agent or policies, program director, other program officials, MIHC medical director, or bankruptcy filings must be reported to the Division no later than five (5) business days after the change or the date of effective action.
- (e) A proposed change of ownership, including a change in a controlling interest, must be reported to the Division a minimum of thirty (30) days prior to the change. The new owner must submit a new application to the Division for approval.

Authority: T.C.A. §§ 68-140-302, 68-140-304, and 68-140-309.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Christopher Brooks, M.D.	X				
Jeff Beaman	X				
Kappu Deshpande, MSN, EMT-P	X				
Thomas A. Dunavant, AEMT	X				
Twila Rose, Paramedic	X				
Greg Patterson, AEMT	X				
Brian Robinson, AEMT	X				
James E. Ross, RN, AEMT				X	
Dennis Rowe, EMT-P	X				
Sullivan K. Smith, M.D.	X				
Timothy Strange, EMT-P	X				
Tyler White, RN	X				
Jeannie Yeatman, RN, EMT	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Emergency Medical Services Board (board/commission/other authority) on 12/12/2018 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 6-20-19

Signature: Kyonté Hughes-Toombs

Name of Officer: Kyonté Hughes-Toombs

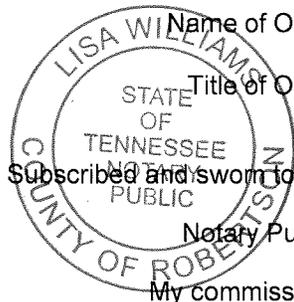
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: June 20, 2019

Notary Public Signature: Lisa Williams

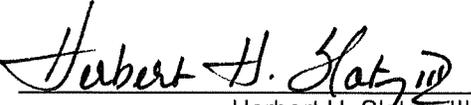
My commission expires on: December 22, 2021



Agency/Board/Commission: Emergency Medical Services Board

Rule Chapter Number(s): 1200-12-07

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.



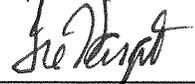
Herbert H. Slatery III
Attorney General and Reporter
11/4/2019

Date

Department of State Use Only

Filed with the Department of State on: 12/16/19

Effective on: 3/15/20



Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Education

SUBJECT: Public Records Requests

STATUTORY AUTHORITY: Public Chapter 712 of 2018 amended T.C.A. § 10-7-503 to require state governmental entities to promulgate rules regarding public records requests.

EFFECTIVE DATES: March 22, 2020 through June 30, 2021

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Public Chapter 712 of 2018 amended T.C.A. § 10-7-503 to require state governmental entities to promulgate rules regarding public records requests no later than January 1, 2019. To comply with this new law, the State Board promulgated Rule 0520-15-01, converting the State Board's Public Records Policy 1.500 into a rule in alignment with the law. During the rule review hearing before the Joint Government Operations Committee, the Committee requested the State Board make a small change to section .08 of the rule to clarify that photographs may be taken of records. Additionally, Section .03 of the rule is being updated to reflect the State Board of Education's new office address as part of this proposed rule.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small business.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not have any financial impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 712 of 2018 amended T.C.A. § 10-7-503 to require state governmental entities to promulgate rules regarding public records requests no later than January 1, 2019. To comply with this new law, the State Board promulgated Rule 0520-15-01, converting the State Board's Public Records Policy 1.500 into a rule in alignment with the law. During the rule review hearing before the Joint Government Operations Committee, the Committee requested the State Board make a small change to section .08 of the rule to clarify that photographs may be taken of records. Additionally, Section .03 of the rule is being updated to reflect the State Board of Education's new office address.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 712 of 2018 amended T.C.A. § 10-7-503 to require state governmental entities to promulgate rules regarding public records requests.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The State Board of Education is directly affected by this rule and urges adoption of the rule. The citizens of Tennessee are directly affected by this rule. The State Board has not received any communication from citizens of the state urging adoption or rejection of this rule outside of the communication from members of the Government Operations Committee requesting adoption of changes to section .08 to allow photographs to be taken of records.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rule has no financial impact.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders
Angela.C.Sanders@tn.gov

Nathan James
Nathan.James@tn.gov

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders
Angela.C.Sanders@tn.gov

Nathan James
Nathan.James@tn.gov

(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Angie Sanders
500 James Robertson Parkway, 5th Floor
Nashville, TN 37243
(615) 253-5707
Angela.C.Sanders@tn.gov

Nathan James
500 James Robertson Parkway, 5th Floor
Nashville, TN 37243
(615) 532-3528
Nathan.James@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

**Department of State
Division of Publications**

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Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 12-16-19
Rule ID(s): 9285
File Date: 12/23/19
Effective Date: 3/22/20

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: State Board of Education
Division:
Contact Person: Angie Sanders
Address: 5th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN
Zip: 37243
Phone: 615-253-5707
Email: Angela.C.Sanders@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-15-01	Public Records Requests
Rule Number	Rule Title
0520-15-01-.03	Making Public Records Requests
0520-15-01-.08	Copies of Records

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-15-01
PUBLIC RECORDS REQUESTS**

0520-15-01-.03 MAKING PUBLIC RECORDS REQUESTS.

- (1) All public record requests shall be made to the PRRC in order to ensure public record requests made pursuant to the TPRA are routed to the appropriate records custodian and fulfilled in a timely manner.
 - (a) Requests for inspection shall be made orally or in writing addressed as follows:
Tennessee State Board of Education
Attn: General Counsel
Andrew Johnson Davy Crockett Tower, 5th4st Floor
500740 James Robertson Pkwy
Nashville, TN 37243
615-253-5707741-2966 (phone)
615-741-0371 (fax)
Angela.c.sanders@tn.gov
- (2) Requests for copies or requests for inspection and copies shall be made in writing via fax, email, mail, or hand delivery using the contact information in section (1)(a) above.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019.

0520-15-01-.08 COPIES OF RECORDS.

- (1) Copies will be available for pickup at State Board's office during regular business hours.
- (2) Upon payment for costs of postage, copies will be delivered to the requestor's home address by U.S. Postal Service.
- (3) A requestor will not be allowed to make copies of records with personal equipment. However, a requestor may use a personal camera to take a photograph of a record. -If copies are to be downloaded to a storage device, the requestor shall supply their own storage device or the records custodian may charge the actual out-of-pocket costs for storage devices on which electronic copies are provided.
- (4) The records custodian shall respond to a public record request for copies in the most economic and efficient manner practicable.

Authority: T.C.A. § 10-7-503. **Administrative History:** Original rules filed June 25, 2019; effective September 23, 2019

Adopted: 11/15/2019

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Nick Darnell	X				
Mike Edwards	X				
Bob Eby	X				
Gordon Ferguson	X				
Elissa Kim	X				
Lillian Hartgrove	X				
Larry Jensen	X				
Darrell Cobbins	X				
Nate Morrow				X	

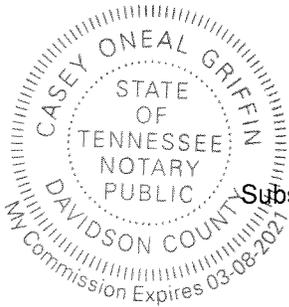
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 11/15/2019 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 12/2/19

Signature: [Handwritten Signature]

Name of Officer: Angie Sanders

Title of Officer: General Counsel



Subscribed and sworn to before me on: 12-2-19

Notary Public Signature: [Handwritten Signature]

My commission expires on: 3-8-21

Agency/Board/Commission: TN State Board of Education

Rule Chapter Number(s): 0520-15-01

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

[Handwritten Signature]
Herbert H. Slatery III
Attorney General and Reporter
12/13/2019
Date

Department of State Use Only

Filed with the Department of State on: 12/23/19

Effective on: 3/22/20

Tre Hargett
Maryland Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Labor and Workforce Development

DIVISION: Occupational Safety and Health

SUBJECT: Occupational Safety and Health Standards for General Industry, Occupational Safety and Health Standards Record-Keeping and Reporting, Occupational Safety and Health Standards for Construction, Occupational Safety and Health Standards for Agriculture

STATUTORY AUTHORITY: Public Chapter 384 of the 108th General Assembly; Public Chapter 488 of the 111th General Assembly

EFFECTIVE DATES: March 22, 2020 through June 30, 2020

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Rules 0800-01-01-.06, 0800-01-06-.02, 0800-01-07-.01 and 0800-01-07-.02 are amended in order to adopt and reference the latest occupational safety and health standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register. Since the last amendments to the rules there have been no substantive changes to the Occupational Safety and Health Standards. Rule 0800-0103-.03 is amended in order to adopt and reference the latest occupational record-keeping and reporting standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

Per TCA 4-5-404, these rule amendments are exempt from the requirement to submit a regulatory flexibility statement because they substantially codify existing federal law.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not have a projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rules 0800-01-01-.06, 0800-01-06-.02, 0800-01-07-.01 and 0800-01-07-.02 are amended in order to adopt and reference the latest occupational safety and health standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register. Since the last amendments to the rules there have been no substantive changes to the Occupational Safety and Health Standards. Rule 0800-01-03-.03 is amended in order to adopt and reference the latest occupational record-keeping and reporting standards and exceptions, if any, in the applicable parts of Title 29, Code of Federal Regulations when published in the Federal Register.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Under the statutory authority of 29 U.S.C. § 667, Tennessee has an approved state plan that provides for the development and enforcement of occupational safety and health standards. In accordance with the plan, when a federal occupational safety and health standard is promulgated under 29 U.S.C. § 655 Tennessee generally adopts the federal standard relating to the same issue. When a federal standard is not adopted, it is referenced as an exception in the rules. The statutory authority for promulgation of the rules by the Commissioner of Labor and Workforce Development is T.C.A. § 50-3-201.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All persons subject to T.C.A. §§ 50-3-101 *et seq.* are directly affected by the rules in Chapters 0800-01-01, 0800-01-06 and 0800-01-07. These rules provide for the effective administration and enforcement of the occupational safety and health standards required by the state plan. Employees and employers including governmental entities in the state must comply with the rules promulgated pursuant to federal and state law. It appears that there are no objections to the proposed amendments to the rules since no inquiries have been made.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There have been no Attorney General opinions or judicial rulings relevant to these rules.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There are no anticipated increases or decreases in state and local government revenues and expenditures resulting from promulgation of the proposed rules and amendments to the existing rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Larry Hunt, Assistant Administrator, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Larry Hunt, Assistant Administrator, Division of Occupational Safety and Health, is the agency representative most knowledgeable about these rules.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Tennessee Department of Labor and Workforce Development
Division of Occupational Safety and Health
220 French Landing Drive
Nashville, TN 37243-1002
(615) 741-7036
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 12-05-19
Rule ID(s): 9277-9280
File Date: 12/4/19
Effective Date: 3/3/20

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Department of Labor and Workforce Development
Division: Division of Occupational Safety and Health
Contact Person: Larry Hunt
Address: 220 French Landing Drive
Zip: 37243-1002
Phone: (615) 741-7036
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0800-01-01	Occupational Safety and Health Standards for General Industry
Rule Number	Rule Title
0800-01-01-.06	Adoption and Citation of Federal Standards

Chapter Number	Chapter Title
0800-01-03	Occupational Safety and Health Standards Record-Keeping and Reporting
Rule Number	Rule Title
0800-01-03-.03	Recordkeeping Forms and Recording Criteria

Chapter Number	Chapter Title
0800-01-06	Occupational Safety and Health Standards for Construction
Rule Number	Rule Title
0800-01-06-.02	Adoption and Citation of Federal Standards

Chapter Number	Chapter Title
0800-01-07	Occupational Safety and Health Standards for Agriculture
Rule Number	Rule Title
0800-01-07-.01	Adoption and Citation of Federal Standards
0800-01-07-.02	Exceptions to Adoption of Federal Standards

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-01-01
OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR GENERAL INDUSTRY**

TABLE OF CONTENTS

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0800-01-01-.01 PURPOSE AND SCOPE.

- (1) The Commissioner of Labor and Workforce Development has the responsibility to develop and promulgate regulations which adopt occupational safety and health standards. The Commissioner may adopt the federal standards relating to the same issue.
- (2) This chapter carries out the directive to the Commissioner of Labor and Workforce Development under T.C.A. §§ 50-3-201 and 50-3-202. It adopts occupational safety and health standards which are the federal standards relating to the same issue, and state standards required for effective enforcement of the Act that are of a general or a specific nature in providing occupational safety and health protection.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, and 50-3-202. **Administrative History:** Original rule certified June 10, 1974. Amendment filed June 12, 1974; effective July 12, 1974. Amendment filed January 10, 1975; effective February 10, 1975. Amendment filed June 18, 1975; effective July 18, 1975. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-01-.02 DEFINITIONS. As used in this and subsequent chapters, unless the context clearly otherwise requires:

- (1) "Act" means Chapter 561 of the Public Acts of 1972, known as the Occupational Safety and Health Act of 1972 pursuant to section 1 thereof, as amended (T.C.A. Title 50, Chapter 3, §§ 50-3-101 through 50-3-919.)
- (2) "Administrator" means the chief administrative officer of the Division of Occupational Safety and Health of the Tennessee Department of Labor and Workforce Development, and includes any person appointed, designated or deputized to perform the duties or to exercise the powers assigned to the Administrator of the Division of Occupational Safety and Health under the Act.
- (3) "Commissioner of Labor and Workforce Development" or "Commissioner" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. For the purposes of this chapter, it includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development under the Act.
- (4) "Employee" means any person performing services for another under a contract of hire, including minors, whether lawfully or unlawfully employed, persons in executive positions, and shall include state, county, metropolitan and municipal government employees.

(Rule 0800-01-01-.02, continued)

- (5) "Employer" means a person engaged in a business who has one or more employees and includes state, county, metropolitan and municipal governments.
- (6) "Federal standard" means a standard adopted a by rule promulgated under section 6 of the Occupational Safety and Health Act of 1970, Public Law 91-596 (Title 29, United States Code § 655).
- (7) "OSHA" means the Occupational Safety and Health Act of 1970, as amended Public Law 91-596 (Title 29, United States Code §§ 650 et seq., or the Occupational Safety and Health Administration, United States Department of Labor, depending upon the context in which the acronym is used. As used in federal standards adopted by this chapter, it shall mean the same as federal standard as defined in paragraph (6) of this rule or one of the foregoing, depending upon context. It shall also, for the purposes of this chapter, be considered synonymous with the acronym "TOSHA" as defined in paragraph (10) of this rule.
- (8) "Person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives or any organized group of persons.
- (9) "Standard" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development which requires conditions or the adoption or the use of one or more practices, means, methods, operations or processes reasonably necessary or appropriate to provide safe and healthful employment and places of employment.
- (10) "TOSHA" means the Division of Occupational Safety and Health, Tennessee Department of Labor and Workforce Development, which is the agency responsible for the administration and enforcement of the Act and rules and regulations promulgated by the Commissioner of Labor and Workforce Development pursuant thereto.

Authority: T.C.A. §§ 4-3-1411, 50-3-103, and 50-3-201. **Administrative History:** Original rule filed January 10, 1975; effective February 9, 1975. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-01-.03 PETITIONS FOR THE ISSUANCE, AMENDMENT, OR REPEAL OF A STANDARD.

- (1) Any interested person may petition in writing the Commissioner of Labor and Workforce Development to promulgate, modify or revoke a standard. The petition should set forth the terms or the substance of the rule desired, the effects thereof if promulgated, and the reasons therefor.
- (2) Within a reasonable time after the receipt of a submission pursuant to paragraph (1) of this rule, the Commissioner shall inform the person submitting the petition in writing of his intended action. If the petition is denied, the Commissioner shall set forth the reasons therefor.

Authority: T.C.A. §§ 4-3-1411, 50-3-105, and 50-3-201. **Administrative History:** Original rule filed June 18, 1975; effective July 18, 1975. Amendment filed January 26, 1976; effective April 15, 1976. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repealed and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-01-.04 AMENDMENTS TO THIS CHAPTER.

- (1) The Commissioner of Labor and Workforce Development may promulgate, modify, or revoke any occupational safety and health standard in this chapter in the manner provided in T.C.A. §§ 4-5-101 et seq., the Uniform Administrative Procedures Act.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201. **Administrative History:** Original rule filed June 18, 1975; effective July 18, 1975. Amendment filed January 26, 1976; effective April 15, 1976. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-01-.05 APPLICABILITY OF STANDARDS.

- (1) Except as provided in paragraph (2) of this rule, the standards contained in this chapter shall apply with respect to employments performed in all workplaces in the State of Tennessee.
- (2) None of the standards in this chapter shall apply to working conditions of employees exempted from coverage under the Act. These are:
 - (a) Employees of the federal government, including its departments, agencies and instrumentalities;
 - (b) Employees whose safety and health are subject to protection under the Atomic Energy Act of 1954, as amended (42 USC §§ 2011-2296);
 - (c) Employees whose safety and health are subject to protection under the federal Coal Mine Health and Safety Act of 1969 (30 USC §§ 801 et seq.), the federal Metal and Nonmetallic Mine Safety Act (30 USC §§ 725) [repealed], or Tennessee Code Annotated, Title 59;
 - (d) Railroad employees whose safety and health are subject to protection under the federal Safety Appliances Act (45 USC §§ 1 et seq.) or the federal Railroad Safety Act of 1970 (45 USC §§ 431-441);
 - (e) Domestic workers; and
 - (f) RESERVED
 - (g) Any employee engaged in agriculture who is employed on a farm, each of the employees of which is related to the employer as a spouse, child, parent, grandparent or grandchild.
- (3) Applicability of specific vs. general standards.
 - (a) If a particular standard is specifically applicable to a condition, practice, means, method, operation or process, it shall prevail over any different general standard which might otherwise be applicable to the same condition, practice, means, method, operation or process. For example, the standard 29 CFR 1910.217 as adopted by rules of this chapter prescribes guarding for mechanical power presses. Such a standard shall apply, and shall not be deemed modified or superseded by any different general standard whose provisions might otherwise be applicable, such as the standard 29 CFR 1910.212 as adopted by rules of this chapter which prescribes general requirements for all machines.

(Rule 0800-01-01-.05, continued)

- (b) On the other hand, any standard shall apply according to its terms to any employment and place of employment in any industry, as standards 29 CFR 1910.261 through 29 CFR 1910.272 (Appendix C) as adopted by rules of this chapter or 29 CFR 1926 as adopted by rules in Chapter 0800-01-06. For example, the general standard regarding noise exposure, 29 CFR 1910.95 as adopted by rules of this chapter, applies to employments and places of employment in pulp, paper and paperboard mills covered by the standard 29 CFR 1910.261 as adopted by rules of this chapter.
- (4) In the event a standard protects on its face a class of persons larger than employees, the standard shall be applicable under the Act only to those employees and their employment and places of employment.
- (5) An employer who is in compliance with any standard in this chapter shall be deemed to be in compliance with the requirement of T.C.A. § 50-3-105(1), but only to the extent of the condition, practice, means, method, operation or process covered by the standard.

Authority: T.C.A. §§ 4-3-1411, 50-3-105, and 50-3-201. **Administrative History:** Original rule filed September 14, 1976; effective October 14, 1976. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed April 14, 2016; effective July 13, 2016.

0800-01-01-.06 ADOPTION AND CITATION OF FEDERAL STANDARDS.

- (1) The federal occupational safety and health standards adopted by the Commissioner of Labor and Workforce Development in this chapter shall be cited using the designation in Title 29, Code of Federal Regulations, Part 1910, i.e., 29 CFR 1910.38, 29 CFR 1910.137(a)(1)(ii)(E), etc. Where adoption to the current Title 29, Code of Federal Regulations, Part 1910, is an exception, the citation shall be to 29 CFR 1910 as published in the Federal Register or to the appropriate rule in this chapter. See Rule 0800-01-01-.07 for exceptions.
- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, as of January 1, 2019 November 1, 2019 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201. **Administrative History:** Original rule filed January 15, 1977; effective February 13, 1977. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Amendment filed August 13, 1999; effective December 29, 1999. Amendment filed November 30, 2000; effective March 30, 2001. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed September 13, 2002; effective January 28, 2003. Amendment filed November 25, 2002; effective March 28, 2003. Amendment filed May 14, 2003; effective September 26, 2003. Amendment filed November 13, 2003; effective March 29, 2004. Amendment filed April 21, 2004; effective August 27, 2004. Amendment filed September 7, 2004; effective January 28, 2005. Amendment filed February 16, 2005; effective June 28, 2005. Amendment filed September 12, 2005; effective January 27, 2006. Amendment filed April 26, 2006; effective August 28, 2006. Amendment filed November 16, 2006; effective March 30, 2007. Amendment filed April 5, 2007; effective August 28, 2007. Amendment filed October 17, 2007; effective February 28, 2008. Amendment filed February 21, 2008; effective June 27, 2008. Amendment filed September 22, 2008; effective January 28, 2009. Amendment filed March 9, 2009; effective July 29, 2009. Amendment filed August 19, 2009; effective January 29, 2010. Amendment filed February 12, 2010; effective July 29, 2010. Amendment filed October 1, 2010; effective March 31, 2011. Amendment filed April 4, 2011; effective September 28, 2011. Amendment filed September 23, 2011; effective February 28, 2012. Amendment filed April 25, 2012; effective September 28, 2012. Amendment filed April 3, 2013; effective September 28, 2013. Amendment filed October 10,

(Rule 0800-01-01-.06, continued)

2013; effective March 31, 2014. Amendment filed April 2, 2014; effective September 28, 2014. Amendment filed September 19, 2014; effective December 18, 2014. Amendment filed May 1, 2015; effective July 30, 2015. Amendment filed September 1, 2015; effective November 30, 2015. Amendment filed April 14, 2016; effective July 13, 2016. Amendments filed October 31, 2016; effective January 29, 2017. Amendment filed January 19, 2017; effective April 19, 2017. Amendment filed April 24, 2017; effective July 23, 2017. Amendment filed November 6, 2017; effective February 4, 2018. Amendments filed June 8, 2018; effective September 6, 2018. Amendments filed October 8, 2018; effective January 6, 2019.

0800-01-01-.07 EXCEPTIONS TO ADOPTION OF FEDERAL STANDARDS IN 29 CFR PART 1910.

- (1) The Commissioner of Labor and Workforce Development does not adopt the following federal occupational safety and health standards:
 - (a) 29 CFR 1910.1 Purpose and scope.
 - (b) 29 CFR 1910.2 Definitions.
 - (c) 29 CFR 1910.3 Petitions for the issuance, amendment, or repeal of a standard.
 - (d) 29 CFR 1910.4 Amendments to this part.
 - (e) 29 CFR 1910.15 Shipyard employment.
 - (f) 29 CFR 1910.16 Longshoring and marine terminals.

- (2) In lieu of the current federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1910, Rule 0800-01-01-.06 of this chapter, or the absence thereof because of repeal or revocation, the Commissioner of Labor and Workforce Development adopts the standards limiting exposure to air contaminants as contained in subparagraph (b) of this rule. The information contained therein was compiled and adopted from the following federal occupational safety and health standards as published in the Federal Register in the volume and on the page(s) indicated.
 - (a) 29 CFR 1910.1000 at 54 FR 2920-2983 and the following corrections and amendments thereto:
 1. 29 CFR 1910.1000 at 54 FR 28054-28061.
 2. 29 CFR 1910.1000 at 54 FR 36767-36768.
 3. 29 CFR 1910.1000 at 54 FR 41244.
 4. 29 CFR 1910.1000 at 54 FR 47513.
 5. 29 CFR 1910.1000 at 54 FR 50372-50373.
 6. 29 CFR 1910.1000 at 55 FR 3724.
 7. 29 CFR 1910.1000 at 55 FR 12819.
 8. 29 CFR 1910.1000 at 55 FR 19259.
 9. 29 CFR 1910.1000 at 55 FR 46950.

(Rule 0800-01-01-.07, continued)

10. 29 CFR 1910.1000 at 57 FR 29204-29206.
 11. 29 CFR 1910.1000 at 57 FR 42388-42389.
- (b) Subpart Z - Toxic and Hazardous Substances 29 CFR 1910.1000 - Air Contaminants as adopted by subparagraph (a) of this rule reads as follows: An employee's exposure to any substance listed in Table Z-1-A shall be limited in accordance with the following requirements:
1. Limits for Air Contaminants Columns. An employee's exposure to any substance listed in Table Z-1-A shall not exceed the Time Weighted Average (TWA), Short Term Exposure Limit (STEL) and Ceiling Limit specified for that substance in Table Z-1-A.
 2. Skin Designation. To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Table Z-1-A with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.
 3. Definitions. The following definitions are applicable to the limits for air contaminants columns of Table Z-1-A:
 - (i) Time weighted average (TWA) is the employee's average airborne exposure in any 8-hour work shift of a 40-hour work week which shall not be exceeded.
 - (ii) Short term exposure limit (STEL) is the employee's 15-minute time weighted average exposure which shall not be exceeded at any time during the work day unless another time limit is specified in a parenthetical notation below the limit. If another time period is specified, the time weighted average exposure over that time period shall not be exceeded at any time during the working day.
 - (iii) Ceiling is the employee's exposure which shall not be exceeded during any part of the work day. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time over a working day.
 4. Additional Definition. The terms "substance", "air contaminant", and "material" are equivalent in meaning for 29 CFR 1910.1000.
- (c) Computation formulae. The computation formula which shall apply to employee exposure to more than one substance for which 8-hour time weighted averages are listed in Subpart Z of 29 CFR Part 1910 in order to determine whether an employee is exposed over the regulatory limit is as follows:
1. The cumulative exposure for an 8-hour work shift shall be computed as follows:
$$E = (CaTa + CbTb + \dots CnTn) \div 8$$

Where:

E is the equivalent exposure for the working shift.
C is the concentration during any period of time.
T where the concentration remains constant.

(Rule 0800-01-01-.07, continued)

T is the duration in hours of the exposure at the concentration C.

2. To illustrate the formula prescribed above, assume that Substance A has an 8-hour time weighted average limit of 100 ppm noted in Table Z-1-A. Assume that an employee is subject to the following exposure:

Two hours exposure at 150 ppm
Two hours exposure at 75 ppm
Four hours exposure at 50 ppm

The value of E shall not exceed the 8-hour time weighted average specified in Subpart Z of 29 CFR Part 1910 for the material involved.

Substituting this information in the formula, we have:

$$(2 \times 150 + 2 \times 75 + 4 \times 50) \div 8 = 81.25 \text{ ppm.}$$

Since 81.25 ppm is less than 100 ppm, the 8-hour time weighted average limit, the exposure is acceptable.

3. In case of a mixture of air contaminants, an employer shall compute the equivalent exposure as follows: $E_m = (C_1 \div L_1) + (C_2 \div L_2) + \dots (C_n \div L_n)$

Where:

E_m is the equivalent exposure for the mixture.
C is the concentration of a particular contaminant.
L is the exposure limit for that substance specified in Subpart Z of 29 CFR Part 1910.
The value of E_m shall not exceed unity (1).

4. To illustrate the formula prescribed above, consider the following exposures:

Substance	Actual concentration of 8 hour exposure (ppm)	8 hr. TWA PEL (ppm)
B	500	1000
C	45	200
D	40	200

Substituting in the formula, we have: $E_m = 500 \div 1000 + 45 \div 200 + 40 \div 200$

$$E_m = 0.500 + 0.225 + 0.200$$

$$E_m = 0.925$$

Since E_m is less than unity (1), the exposure combination is within acceptable limits.

- (d) To achieve compliance with subparagraphs (b) and (c) of this rule, administrative or engineering controls must first be determined and implemented whenever feasible. When such controls are not feasible to achieve full compliance, protective equipment or any other protective measures shall be used to keep the exposure of employees to air contaminants within the limits prescribed herein. Any equipment and/or technical measures used for this purpose must be approved for each particular use by a competent industrial hygienist or other technically qualified person. Whenever respirators are used, their use shall comply with 29 CFR 1910.134.

(Rule 0800-01-01-.07, continued)

(e) Note: Abbreviations used in Table Z-1-A.

1. As determined from breathing-zone air samples:
 - (i) ppm - Parts of vapor or gas per million parts of contaminated air by volume at 25 degrees C and 760 torr.
 - (ii) mg/m³ - Approximate milligrams of substance per cubic meter of air.
 - (iii) STEL - Short Term Exposure Limit, duration is 15 minutes, unless otherwise noted.

2. CAS No. - Chemical Abstract Service Number, the CAS number is for information only. Enforcement is based on the substance name. For an entry covering more than one metal compound measured as the metal, the CAS number for the metal is given-not the CAS numbers for the individual compounds.

(3) TABLE Z-1-A - Limits For Air Contaminants.

Substance	CAS No.	TWA		STEL		Ceiling		Skin designation
		ppm	mg/m ³	ppm	mg/m ³	ppm	mg/m ³	
Acetaldehyde	75-07-0	100	180	150	270	—	—	—
Acetic acid	64-19-7	10	25	—	—	—	—	—
Acetic anhydride	108-24-7	—	—	—	—	5	20	—
Acetone	67-64-1	750	1800	1000	2400	—	—	—
Acetonitrile	75-05-8	40	70	60	105	—	—	—
2-Acetylaminofluorine; see 29 CFR 1910.1003	53-96-3	—	—	—	—	—	—	—
Acetylene dichloride; see 1,2-Dichloroethylene								
Acetylene tetrabromide	79-27-6	1	14	—	—	—	—	—
Acetylsalicylic acid (Asprin)	50-78-2	—	5	—	—	—	—	—
Acrolein	107-02-8	0.1	0.25	0.3	0.8	—	—	—
Acrylamide	79-06-1	—	0.03	—	—	—	—	X
Acrylic acid	79-10-7	10	30	—	—	—	—	X
Acrylonitrile; see 29 CFR 1910.1045	107-13-1	—	—	—	—	—	—	—
Aldrin	309-00-2	—	0.25	—	—	—	—	X
Allyl alcohol	107-18-6	2	5	4	10	—	—	X
Allyl chloride	107-05-1	1	3	2	6	—	—	—
Allyd glycidl ether (AGE)	106-92-3	5	22	10	44	—	—	—
Allyl propyl disulfide	2179-59-1	2	12	3	18	—	—	—
alpha-Alumina	1344-28-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Aluminum (As al) Metal	7429-90-5	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Pyro powders	—	—	5	—	—	—	—	—
Welding fumes	—	—	5	—	—	—	—	—
Soluble salts	—	—	2	—	—	—	—	—
Alkyls	—	—	2	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

4-Aminodiphenyl; see 29 CFR 1910.1003	92-67-1							
2-Aminoethanol; see Ethanolamine								
2-Aminopyridine	504-29-0	0.5	2	—	—	—	—	—
Amitrole	61-82-5	—	0.2	—	—	—	—	—
Ammonia	7664-41-7	—	—	35	27	—	—	—
Ammonium chloride fume	12125-02-9	—	10	—	20	—	—	—
Ammonium sulfamate	7773-06-0							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
n-Amyl acetate	628-63-7	100	525	—	—	—	—	—
Sec-Amyl acetate	626-38-0	125	650	—	—	—	—	—
Aniline and homologs	62-53-3	2	8	—	—	—	—	X
Anisidine (o-,p-isomers)	29191-52-4	—	0.5	—	—	—	—	X
Antimony and compounds (as Sb)	7440-36-0	—	0.5	—	—	—	—	—
ANTU (alpha Naphthylthiourea)	86-88-4	—	0.3	—	—	—	—	—
Arsenic, organic compounds (as As)	7440-38-2	—	0.5	—	—	—	—	—
Arsenic, inorganic compounds (as As); see 29 CFR 1910.1018	7440-38-2							
Arsine	7784-42-1	0.05	0.2	—	—	—	—	—
Asbestos; see 29 CFR 1910.1001 and 29 CFR 1926.1101	Varies							
Atrazine	1912-24-9	—	5	—	—	—	—	—
Azinphos-methyl	86-50-0	—	0.2	—	—	—	—	X
Barium, soluble compounds (as Ba)	7440-39-3	—	0.5	—	—	—	—	—
Barium sulfate	7727-43-7							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Benomyl	17804-35-2							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Benzene; see 29 CFR 1910.1028	71-43-2							
Industries excluded from 29 CFR 1910.1028 (STEL – 10 minutes)		10	—	25	—	50	—	—
Benzidine; see 29 CFR 1910.1003	92-87-5							
p-Benzoquinone; see Quinone								
Benzo(a)pyrene; see Coal tar pitch volatiles								
Benzoyl peroxide	94-36-0	—	5	—	—	—	—	—
Benzyl chloride	100-44-7	1	5	—	—	—	—	—
Beryllium and beryllium Compounds (as Be) (STEL – 30 minutes)	7440-41-7	—	0.002	—	0.005	—	0.025	—
Biphenyl; see Diphenyl								
Bismuth telluride, Undoped	1304-82-1							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Bismuth telluride, Se-doped	—	—	5	—	—	—	—	—
Borates, tetra, sodium salts								
Anhydrous	1330-43-4	—	10	—	—	—	—	—
Decahydrate	1303-96-4	—	10	—	—	—	—	—
Pentahydrate	12179-04-3	—	10	—	—	—	—	—
Boron oxide	1303-86-2							
Total dust	—	—	10	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

Boron tribromide	10294-33-4	—	—	—	—	1	10	—
Boron trifluoride	7637-07-2	—	—	—	—	1	3	—
Bromacil	314-40-9	1	10	—	—	—	—	—
Bromine	7726-95-6	0.1	0.7	0.3	2	—	—	—
Bromine pentafluoride	7789-30-2	0.1	0.7	—	—	—	—	—
Bromoform	75-25-2	0.5	5	—	—	—	—	X
Butadiene (1,3-Butadiene) see 29 CFR 1910.1051	106-99-8							
Butane	106-97-8	800	1900	—	—	—	—	—
Butanethiol; see Butyl mercaptan								
2-Butanone (Methyl ethyl ketone)	78-93-3	200	590	300	885	—	—	—
2-Butoxyethanol	111-76-2	25	120	—	—	—	—	X
n-butyl-acetate	123-86-4	150	710	200	950	—	—	—
Sec-Butyl acetate	105-46-4	200	950	—	—	—	—	—
Tert-Butyl acetate	540-88-5	200	950	—	—	—	—	—
Butyl acrylate	141-32-2	10	55	—	—	—	—	—
n-Butyl alcohol	71-36-3	—	—	—	—	50	150	X
Sec-Butyl alcohol	78-92-2	100	305	—	—	—	—	—
Tert-Butyl alcohol	75-65-0	100	300	150	450	—	—	—
Butylamine	109-73-9	—	—	—	—	5	15	X
Tert-Butyl chromate (as CrO3)	1189-85-1	—	—	—	—	—	0.1	X
n-Butyl glycidyl ether (BGE)	2426-08-6	25	135	—	—	—	—	—
n-Butyl lactate	138-22-7	5	25	—	—	—	—	—
Butyl mercaptan	109-79-5	0.5	1.5	—	—	—	—	—
o-sec-Butylphenol	89-72-5	5	30	—	—	—	—	X
p-tert-Butyltoluene	98-51-1	10	60	20	120	—	—	—
Cadmium fume and dust (as Cd); see 29 CFR 1910.1027	7440-43-9							
Calcium carbonate	1317-65-3							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Calcium cyanamide	156-62-7	—	0.5	—	—	—	—	—
Calcium hydroxide	1305-62-0							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Calcium oxide	1305-78-8		5	—	—	—	—	—
Calcium silicate	1344-95-2							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Calcium sulfate	7778-18-9							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Camphor, synthetic	76-22-2	—	2	—	—	—	—	—
Caprolactam	105-60-2							
Dust	—	—	1	—	3	—	—	—
Vapor	—	5	20	10	40	—	—	—
Captafol (Difolatan®)	2425-06-1	—	0.1	—	—	—	—	—
Captan	133-06-2	—	5	—	—	—	—	—
Carbaryl (Sevin®)	63-25-2	—	5	—	—	—	—	—
Carbofluran (Furadan®)	1563-66-2	—	0.1	—	—	—	—	—
Carbon black	1333-86-4	—	3.5	—	—	—	—	—
Carbon dioxide	124-38-9	10,000	18,000	30,000	54,000	—	—	—
Carbon disulfide	75-15-0	4	12	12	36	—	—	X

(Rule 0800-01-01-.07, continued)

Carbon monoxide (STEL – 5 minutes)	630-08-0	35	40	200	229	1500	—	—
Carbon tetrabromide	558-13-4	0.1	1.4	0.3	4	—	—	—
Carbon tetrachloride	56-23-5	2	12.6	—	—	—	—	—
Carbonyl fluoride	353-50-4	2	5	5	15	—	—	—
Catechol (Pyrocatechol)	120-80-9	5	20	—	—	—	—	X
Cellulose	9004-34-6							
Total Dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Cesium hydroxide	21351-79-1	—	2	—	—	—	—	—
Chlordane	57-74-9	—	0.5	—	—	—	—	X
Chlorinated camphene	8001-35-2	—	0.5	—	1	—	—	X
Chlorinated diphenyl oxide	55720-99-5	—	0.5	—	—	—	—	—
Chlorine	7782-50-5	0.5	1.5	1	3	—	—	—
Chlorine dioxide	10049-04-4	0.1	0.3	0.3	0.9	—	—	—
Chlorine trifluoride	7790-91-2	—	—	—	—	0.1	0.4	—
Chloroacetaldehyde	107-20-0	—	—	—	—	1	3	—
a-Chloroacetophenone (Phenacyl chloride)	532-27-4	0.05	0.3	—	—	—	—	—
Chloroacetyl chloride	79-04-9	0.05	0.2	—	—	—	—	—
Chlorobenzene	108-90-7	75	350	—	—	—	—	—
o-Chlorobenzylidene malononitrile	2698-41-1	—	—	—	—	0.05	0.4	X
Chlorobromomethane	74-97-5	200	1050	—	—	—	—	—
2-Chloro-1,3-butadiene; see b-Chloroprene								
Chlorodifluoromethane	75-45-6	1000	3500	—	—	—	—	—
Chlorodiphenyl (42% Chlorine) (PCB)	53469-21-9	—	1	—	—	—	—	X
Chlorodiphenyl (54% Chlorine) (PCB)	11097-69-1	—	0.5	—	—	—	—	X
1-Chloro,2,3-epoxypropane; see Epichlorohydrin								
2-Chloroethanol; see Ethylene chlorohydrin								
Chloroethylene; see Vinyl chloride								
Chloroform (Trichloromethane)	67-66-3	2	9.78	—	—	—	—	—
Bis(Chloromethyl) ether see 29 CFR 1910.1003	542-88-1							
Chloromethyl methyl ether; see 29 CFR 1910.1003	107-30-2							
1-Chloro-1-nitropropane	600-25-9	2	10	—	—	—	—	—
Chloropentafluoroethane	76-15-3	1000	6320	—	—	—	—	—
Chloropicrin	76-06-2	0.1	0.7	—	—	—	—	—
Beta-Chloroprene	126-99-8	10	35	—	—	—	—	X
o-Chlorostyrene	2039-87-4	50	285	75	428	—	—	—
o-Chlorotoluene	95-49-8	50	250	—	—	—	—	—
2-Chloro-6-trichloro-methylpyridine	1929-82-4							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Chlorpyrifos	2921-88-2	—	0.2	—	—	—	—	X
Chromic acid and chromates (as CrO ₃)	Varies with compound	—	—	—	—	—	0.1	—
Chromium, sol chromic, chromous	7440-47-3	—	0.5	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

salts (as Cr)								
Chromium, metal and insoluble Salts	7440-47-3	—	1	—	—	—	—	—
Chrysene; see Coal tar pitch volatiles								
Clopidol	2971-90-6							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Coal dust (less than 5% SiO ₂) Respirable fraction	—	—	0.2	—	—	—	—	—
Coal dust (greater than or equal to 5% SiO ₂), Respirable quartz fraction	—	—	0.1	—	—	—	—	—
Coal tar pitch volatiles (benzene soluble fraction), anthracene, BaP, phenanthrene, acidine, chrysene, pyrene	65966-93-2	—	0.2	—	—	—	—	—
Cobalt metal, dust, and fume (as Co)	7440-48-4	—	0.05	—	—	—	—	—
Cobalt carbonyl (as Co)	10210-68-1	—	0.1	—	—	—	—	—
Cobalt hydrocarbonyl (as Co)	16842-03-8	—	0.1	—	—	—	—	—
Coke oven emissions; see 29 CFR 1910.1029	—							
Copper	7440-50-8	—	—	—	—	—	—	—
Fume (as Cu)	—	—	0.1	—	—	—	—	—
Dusts and mists (as Cu)	—	—	1	—	—	—	—	—
Cotton dust (raw)	—	—	1	—	—	—	—	—
This 8-hour TWA applies to respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. The time-weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning and willowing) and garnetting. See also 29 CFR 1910.1043 for cotton dust limits applicable to other sectors.								
Crag herbicide (Sesone)	136-78-7	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Cresol, all isomers	1319-77-3	5	22	—	—	—	—	X
Crotonaldehyde	123-73-9; 4170-30-3	2	6	—	—	—	—	—
Crufomate	299-86-5	—	5	—	—	—	—	—
Cumene	98-82-8	50	245	—	—	—	—	X
Cyanamide	420-04-2	—	2	—	—	—	—	—
Cyanides (as CN)	Varies with compound	—	5	—	—	—	—	—
Cyanogen	460-19-5	10	20	—	—	—	—	—
Cyanogen chloride	506-77-4	—	—	—	—	0.3	0.6	—
Cyclohexane	110-82-7	300	1050	—	—	—	—	—
Cyclohexanol	108-93-0	50	200	—	—	—	—	X
Cyclohexanone	108-94-1	25	100	—	—	—	—	X
Cyclohexene	110-83-8	300	1015	—	—	—	—	—
Cyclohexylamine	108-91-8	10	40	—	—	—	—	—
Cyclonite	121-82-4	—	1.5	—	—	—	—	X
Cyclopentadiene	542-92-7	75	200	—	—	—	—	—
Cyclopentane	287-92-3	600	1720	—	—	—	—	—
Cyhexatin	13121-70-5	—	5	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

2,4-D (Dichlorophenoxyacetic acid)	94-75-7	—	10	—	—	—	—	—
Decaborane	17702-41-9	0.05	0.3	0.15	0.9	—	—	X
Demeton (Systox®)	8065-48-3	—	0.1	—	—	—	—	X
Dichlorodiphenyltrichloroethane (DDT)	50-29-3	—	1	—	—	—	—	X
Dichlorvos (DDVP)	62-73-7	—	1	—	—	—	—	X
Diacetone alcohol (4-Hydroxy-4-methyl-2-pentanone)	123-42-2	50	240	—	—	—	—	—
1,2-Diaminoethane; see Ethylenediamine								
Diazinon	333-41-5	—	0.1	—	—	—	—	X
Diazomethane	334-88-3	0.2	0.4	—	—	—	—	—
Diborane	19287-45-7	0.1	0.1	—	—	—	—	—
1,2-Dibromo-3-chloropropane; see 29 CFR 1910.1044	96-12-8							
2-N-Dibutylaminoethanol	102-81-8	2	14	—	—	—	—	—
Dibutyl phosphate	107-66-4	1	5	2	10	—	—	—
Dibutyl phthalate	84-74-2	—	5	—	—	—	—	—
Dichloroacetylene	7572-29-4	—	—	—	—	0.1	0.4	—
o-Dichlorobenzene	95-50-1	—	—	—	—	50	300	—
p-Dichlorobenzene	106-46-7	75	450	110	675	—	—	—
3,3'-Dichlorobenzidine see 29 CFR 1910.1003	91-94-1							
Dichlorodifluoromethane	75-71-8	1000	4950	—	—	—	—	—
1,3-Dichloro-5,5-dimethyl hydantion	118-52-5	—	0.2	—	0.4	—	—	—
1,1-Dichloroethane	75-34-3	100	400	—	—	—	—	—
1,2-Dichloroethylene	540-59-0	200	790	—	—	—	—	—
Dichloroethyl ether	111-44-4	5	30	10	60	—	—	X
Dichloromethane; see Methylene chloride								
Dichloromonofluoro-methane	75-43-4	10	40	—	—	—	—	—
1,1-Dichloro-1-nitroethane	594-72-9	2	10	—	—	—	—	—
1,2-Dichloropropane; see Propylenedichloride								
1,3-Dichloropropene	542-75-8	1	5	—	—	—	—	X
2,2-Dichloropropionic acid	75-99-0	1	6	—	—	—	—	—
Dichlorotetrafluoroethane	76-14-2	1000	7000	—	—	—	—	—
Dicrotophos	141-66-2	—	0.25	—	—	—	—	X
Dicyclopentadiene	77-73-6	5	30	—	—	—	—	—
Dicyclopentadienyl iron	102-54-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Dieldrin	60-57-1	—	0.25	—	—	—	—	X
Diethanolamine	111-42-2	3	15	—	—	—	—	—
Diethylamine	109-89-7	10	30	25	75	—	—	—
2-Diethylaminoethanol	100-37-8	10	50	—	—	—	—	X
Diethylene triamine	111-40-0	1	4	—	—	—	—	—
Diethyl ether, see Ethyl ether								
Diethyl ketone	96-22-0	200	705	—	—	—	—	—
Diethyl phthalate	84-66-2	—	5	—	—	—	—	—
Difluorodibromomethane	75-61-6	100	860	—	—	—	—	—
Diglycidyl ether (DGE)	2238-07-5	0.1	0.5	—	—	—	—	—
Dihydroxybenzene; see								

(Rule 0800-01-01-.07, continued)

Hydroquinone								
Diisobutyl ketone	108-83-8	25	150	—	—	—	—	—
Diisopropylamine	108-18-9	5	20	—	—	—	—	X
4-Dimethylaminoazo-benzene; see 29 CFR 1910.1003	60-11-7	—	—	—	—	—	—	—
Dimethoxymethane; see Methytal								
Dimethyl acetamide	127-19-5	10	35	—	—	—	—	X
Dimethylamine	124-40-3	10	18	—	—	—	—	—
Dimethylaminobenzene; see Xylidine								
Dimethylaniline (N,N-Dimethyl- aniline)	121-69-7	5	25	10	50	—	—	X
Dimethylbenzene; see Xylene								
Dimethyl-1,2-dibromo-2,2- dichloroethyl phosphate	300-76-5	—	3	—	—	—	—	X
Dimethylformamide	68-12-2	10	30	—	—	—	—	X
2,6-Dimethyl-4-hepta-none; see Diisobutyl ketone								
1,1-Dimethylhydrazine	57-14-7	0.5	1	—	—	—	—	X
Dimethylphthalate	131-11-3	—	5	—	—	—	—	—
Dimethyl sulfate	77-78-1	0.1	0.5	—	—	—	—	X
Dinitolmide (3,5-Dinitro-o-toluamide)	148-01-6	—	5	—	—	—	—	—
Dinitrobenzene (all isomers)			1	—	—	—	—	X
(alpha-)	528-29-0							
(meta-)	99-65-0							
(para-)	100-25-4							
Dinitro-o-cresol	534-52-1	—	0.2	—	—	—	—	X
Dinitrotoluene	25321-14-6	—	1.5	—	—	—	—	X
Dioxane (Diethylene dioxide)	123-91-1	25	90	—	—	—	—	X
Dioxathion (Delnav)	78-34-2	—	0.2	—	—	—	—	X
Diphenyl (Biphenyl)	92-52-4	0.2	1	—	—	—	—	—
Diphenylamine	122-39-4	—	10	—	—	—	—	—
Diphenylmethane diisocyanate; see Methylene bisphenyl isocyanate								
Dipropylene glycol methyl ether	34590-94-8	100	600	150	900	—	—	X
Diprophy ketone	123-19-3	50	235	—	—	—	—	—
Diquat	85-00-7	—	0.5	—	—	—	—	—
Di-sec octyl phthalate (Di-2- ethylhexyl-phthalate)	117-81-7	—	5	—	10	—	—	—
Disulfiram	97-77-8	—	2	—	—	—	—	—
Disulfoton	298-04-4	—	0.1	—	—	—	—	X
2-6Di-tert-butyl-p-cresol	128-37-0	—	10	—	—	—	—	—
Diuron	330-54-1	—	10	—	—	—	—	—
Divinyl benzene	1321-74-0	10	50	—	—	—	—	—
Emery	12415-34-8	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Endosulfan	115-29-7	—	0.1	—	—	—	—	X
Endrin	72-20-8	—	0.1	—	—	—	—	X
Epichlorohdrin	106-89-8	2	8	—	—	—	—	X
EPN	2104-64-5	—	0.5	—	—	—	—	X
1,2-epoxypropane; see Propylene oxide								

(Rule 0800-01-01-.07, continued)

2-3-Epoxy-1-propanol; see Glydicol								
Ethanethiol; see Ethy mercaptan								
Ethanolamine	141-43-5	3	8	6	15	—	—	—
Ethion	563-12-2	—	0.4	—	—	—	—	X
2-Ethoxyethanol	110-80-5	200	740	—	—	—	—	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	100	540	—	—	—	—	X
Ethyl acetate	141-78-6	400	1400	—	—	—	—	—
Ethyl acrylate	140-88-5	5	20	25	100	—	—	X
Ethyl alcohol (Ethonal)	64-17-5	1000	1900	—	—	—	—	—
Ethylamine	75-04-7	10	18	—	—	—	—	—
Ethyl amyl ketone (5-Methyl-3-heptanone)	541-85-5	25	130	—	—	—	—	—
Ethyl benzene	100-41-4	100	435	125	545	—	—	—
Ethyl bromide	74-96-4	200	890	250	1110	—	—	—
Ethyl butyl ketone (3-Heptanone)	106-35-4	50	230	—	—	—	—	—
Ethyl chloride	75-00-3	1000	2600	—	—	—	—	—
Ethyl ether	60-29-7	400	1200	500	1500	—	—	—
Ethyl formate	109-94-4	100	300	—	—	—	—	—
Ethyl mercaptan	75-08-1	0.5	1	—	—	—	—	—
Ethyl silicate	78-10-4	10	85	—	—	—	—	—
Ethylene chlorohydrin	107-07-3	—	—	—	—	1	3	X
Ethylenediamine	107-15-3	10	25	—	—	—	—	—
Ethylene dibromide (STEL – 5 minutes)	106-93-4	20	—	—	30	—	50	—
Ethylene dichloride	107-06-2	1	4	2	8	—	—	—
Ethylene glycol	107-21-1	—	—	—	—	50	125	—
Ethylene glycol dinitrate	628-96-6	—	—	—	0.1	—	—	X
Ethylene glycol methyl acetate; see Methyl cellosolve acetate								
Ethyleneimine; see 29 CFR 1910.1003	151-56-4							
Ethylene oxide; see 29 CFR 1910.1047	75-21-8							
Ethylidene chloride; see 1,1-Dichloroethane								
Ethylidene norbornene	16219-75-3	—	—	—	—	5	25	—
Nethylmorpholine	100-74-3	5	23	—	—	—	—	X
Fenamiphos	22224-92-6	—	0.1	—	—	—	—	X
Fensulfothion (Dasanit)	115-90-2	—	0.1	—	—	—	—	—
Fenthion	55-38-9	—	0.2	—	—	—	—	X
Ferbam	14484-64-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Ferrovandium dust	12604-58-9	—	1	—	3	—	—	—
Fluorides (as F)	Varies with compound	—	2.5	—	—	—	—	—
Fluorine	7782-41-4	0.1	0.2	—	—	—	—	—
Fluorotrichloromethane (Trichlorofluoromethane)	75-69-4	—	—	—	—	1000	5600	—
Fonofos	944-22-9	—	0.1	—	—	—	—	X
Formaldehyde; see 29 CFR 1910.1048								
Formamide	75-12-7	20	30	30	45	—	—	—

(Rule 0800-01-01-.07, continued)

Formic acid	64-18-6	5	9	—	—	—	—	—
Furfural	98-01-1	2	8	—	—	—	—	X
Furfuryl alcohol	98-00-0	10	40	15	60	—	—	X
Gasoline	8006-61-9	300	900	500	1500	—	—	—
Bermanium tetrahydride	7782-65-2	0.2	0.6	—	—	—	—	—
Glutaraldehyde	111-30-8	—	—	—	—	0.2	0.8	—
Glycerin (mist)	56-81-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Glycidol	556-52-5	25	75	—	—	—	—	—
Glycol monoethyl ether see 2-Ethoxyethanol								
Grain dust (oat, wheat, barley)	—	—	10	—	—	—	—	—
Graphite, natural respirable dust	7782-42-5	—	2.5	—	—	—	—	—
Graphite, synthetic	—	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Guthion®, see Azinphos methyl								
Gypsum	13397-24-5							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Hafnium	7440-58-6	—	0.5	—	—	—	—	—
Heptachlor	76-44-8	—	0.5	—	—	—	—	X
Heptane (n-Heptane)	142-82-5	400	1600	500	2000	—	—	—
Hexachlorobutadiene	87-68-3	0.02	0.24	—	—	—	—	—
Hexachlorocyclo-pentadiene	77-47-4	0.01	0.1	—	—	—	—	—
Hexachloroethane	67-72-1	1	10	—	—	—	—	X
Hexachloronaphthalene	1335-87-1	—	0.2	—	—	—	—	X
Hexafluoroacetone	684-16-2	0.1	0.7	—	—	—	—	X
n-Hexane	110-54-3	50	180	—	—	—	—	—
Hexane isomers	Varies with compound	500	1800	1000	3600	—	—	—
2-Hexanone (Methyl n-butyl ketone)	591-78-6	5	20	—	—	—	—	—
Hexone (Methyl isobutyl ketone)	108-10-1	50	205	75	300	—	—	—
sec-Hexyl acetate	108-84-9	50	300	—	—	—	—	—
Hexylene glycol	107-41-5	—	—	—	—	25	125	—
Hydrazine	302-01-2	0.2	0.1	—	—	—	—	X
Hydrogenated terphenyls	61788-32-7	0.5	5	—	—	—	—	—
Hydrogen bromide	10035-10-6	—	—	—	—	3	10	—
Hydrogen chloride	7647-01-0	—	—	—	—	5	7	—
Hydrogen cyanide	74-90-8	—	—	4.7	5	—	—	X
Hydrogen fluoride (as F)	7664-39-3	3	—	6	—	—	—	—
Hydrogen peroxide	7722-84-1	1	1.4	—	—	—	—	—
Hydrogen selenide (as Se)	7783-07-5	0.05	0.2	—	—	—	—	—
Hydrogen sulfide	7783-06-4	10	14	15	21	—	—	—
Hydroquinone	123-31-9	—	2	—	—	—	—	—
2-Hydroxypropyl acrylate	999-61-1	0.5	3	—	—	—	—	X
Indene	95-13-6	10	45	—	—	—	—	—
Indium and compounds (as in)	7440-74-6	—	0.1	—	—	—	—	—
Iodine	7553-56-2	—	—	—	—	0.1	1	—
Iodoform	75-47-8	0.6	10	—	—	—	—	—
Iron oxide fume	1309-37-1	—	10	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

Iron pentacarbonyl (as Fe)	13463-40-6	0.1	0.8	0.2	1.6	—	—	—
Iron salts (soluble) (as Fe)	Varies with compound	—	1	—	—	—	—	—
Isoamyl acetate	123-92-2	100	525	—	—	—	—	—
Isoamyl alcohol (primary and secondary)	123-51-3	100	360	125	450	—	—	—
Isobutyl acetate	110-19-0	150	700	—	—	—	—	—
Isobutyl alcohol	78-83-1	50	150	—	—	—	—	—
Isooctyl alcohol	26952-21-6	50	270	—	—	—	—	X
Isophorone	78-59-1	4	23	—	—	—	—	—
Isophorone diisocyanate	4098-71-9	0.005	—	0.02	—	—	—	X
2-Isopropoxyethanol	109-59-1	25	105	—	—	—	—	—
Isopropyl acetate	108-21-4	250	950	310	1185	—	—	—
Isopropyl alcohol	67-63-0	400	980	500	1225	—	—	—
Isopropylamine	75-31-0	5	12	10	24	—	—	—
N-isopropylaniline	768-52-5	2	10	—	—	—	—	X
Isopropyl ether	108-20-3	500	2100	—	—	—	—	—
Isopropyl glycidyl ether (IGE)	4016-14-2	50	240	75	360	—	—	—
Kaolin								
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Ketene	463-51-4	0.5	0.9	1.5	3	—	—	—
Lead inorganic (as Pb); see 29 CFR 1910.1025	7439-92-1							
Limestone	1317-65-3							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Lindane	58-89-9	—	0.5	—	—	—	—	X
Lithium hydride	7580-67-8	—	0.025	—	—	—	—	—
L.P.G. (liquefied petroleum gas)	68476-85-7	1000	1800	—	—	—	—	—
Magnesite	546-93-0	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Magnesium oxide fume	1309-48-4	—	—	—	—	—	—	—
Total particulate	—	—	10	—	—	—	—	—
Malathion	121-75-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	X
Maleic anhydride	108-31-6	0.25	1	—	—	—	—	—
Manganese compounds (as Mn)	7439-96-5	—	—	—	—	—	5	—
Manganese fume (as Mn)	7439-96-5	—	1	—	3	—	—	—
Manganese cyclopenta-dienyl tricarbonyl (as Mn)	12079-65-1	—	0.1	—	—	—	—	X
Manganese tetroxide (as Mn)	1317-35-7	—	1	—	—	—	—	—
Marble	1317-65-3	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Mercury (aryl and inorganic) (as Hg)	7439-97-6	—	—	—	—	—	0.1	X
Mercury (organo) alkyl compounds (as Hg)	7439-97-6	—	0.01	—	0.03	—	—	X
Mercury (vapor) (as Hg)	7439-97-6	—	0.05	—	—	—	—	X
Mesityl oxide	141-79-7	15	60	25	100	—	—	—
Methacrylic acid	79-41-4	20	70	—	—	—	—	X

(Rule 0800-01-01-.07, continued)

Methanethiol; see Methyl mercaptan								
Methomyl (Lannate)	16752-77-5	—	2.5	—	—	—	—	—
Methoxychlor	72-43-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
2-Methoxyethanol; see Methyl cellosolve								
4-Methoxyphenol	150-76-5	—	5	—	—	—	—	—
Methyl acetate	79-20-9	200	610	250	760	—	—	—
Methyl acetylene (Propyne)	74-99-7	1000	1650	—	—	—	—	—
Methyl acetylene-propadiene mixture (MAPP)	—	1000	1800	1250	2250	—	—	—
Methyl acrylate	96-33-3	10	35	—	—	—	—	X
Methylacrylonitrile	126-98-7	1	3	—	—	—	—	X
Methylal (Dimethoxy-methane)	109-87-5	100	3100	—	—	—	—	—
Methyl alcohol	67-56-1	200	260	250	325	—	—	X
Methylamine	74-89-5	10	12	—	—	—	—	—
Methyl amyl alcohol; see Methyl isobutyl carbinol								
Methyl n-amyl ketone	110-43-0	100	465	—	—	—	—	—
Methyl bromide	74-83-9	5	20	—	—	—	—	X
Methyl butyl ketone; see 2-Hexanone								
Methyl cellosolve (2-Methoxyethanol)	109-86-4	25	80	—	—	—	—	X
Methyl cellosolve acetate (2-Methoxyethyl acetate)	110-49-6	25	120	—	—	—	—	X
Methyl chloride	74-87-3	50	105	100	210	—	—	—
Methyl chloroform (1,1,1-Trichloroethane)	71-55-6	350	1900	450	2450	—	—	—
Methyl 2-cyanoacrylate	137-05-3	2	8	4	16	—	—	—
Methyl cyclohexane	108-87-2	400	1600	—	—	—	—	—
Methylcyclohexanol	25639-42-3	50	235	—	—	—	—	—
o-Methylcyclohexanone	583-60-8	50	230	75	345	—	—	X
Methylcyclopentadienyl manganese tricarbonyl (as Mn)	12106-13-3	—	0.2	—	—	—	—	X
Methyl demeton	8022-00-2	—	0.5	—	—	—	—	X
4,4'-Methylene bis (2-chloroaniline (MBOCA)	101-14-4	0.02	0.22	—	—	—	—	X
Methylene bis (4-cyclohexylisocyanate)	5124-30-1	—	—	—	—	0.01	0.11	X
Methylene chloride; see 29 CFR 1910.1052	75-09-2	—	—	—	—	—	—	—
Methylenedianiline; see 29 CFR 1910.1050								
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	—	—	—	—	0.7	5	—
Methyl formate	107-31-3	100	250	150	375	—	—	—
Methyl hydrazine (monomethyl hydrazine)	60-34-4	—	—	—	—	0.2	0.35	X
Methyl iodide	74-88-4	2	10	—	—	—	—	X
Methyl isoamyl ketone	110-12-3	50	240	—	—	—	—	—
Methyl isobutyl carbinol	108-11-2	25	100	40	165	—	—	X
Methyl isobutyl ketone; see Hexone								

(Rule 0800-01-01-.07, continued)

Methyl isocyanate	624-83-9	0.02	0.05	—	—	—	—	X
Methyl isopropyl ketone	563-80-4	200	705	—	—	—	—	—
Methyl mercaptan	74-93-1	0.5	1	—	—	—	—	—
Methyl methacrylate	80-62-6	100	410	—	—	—	—	—
Methyl parathion	298-00-0	—	0.2	—	—	—	—	X
Methyl propyl ketone; see 2-Pentanone								
Methyl silicate	681-84-5	1	6	—	—	—	—	—
alpha-Methyl styrene	98-83-9	50	240	100	485	—	—	—
Methylene disphenyl isocyanate (MDI)	101-68-8	—	—	—	—	0.02	0.2	—
Metribuzin	21087-64-9	—	5	—	—	—	—	—
Mica; see Silicates								
Molybdenum (as Mo)	7439-98-7							
Soluble compounds	—	—	5	—	—	—	—	—
Insoluble compounds								
Total dust	—	—	10	—	—	—	—	—
Monocrotophos (Azodrin®)	6923-22-4	—	0.25	—	—	—	—	—
Monomethyl aniline	100-61-8	0.5	2	—	—	—	—	X
Morpholine	110-91-8	20	70	30	105	—	—	X
Naphtha (Coal tar)	8030-30-6	100	400	—	—	—	—	—
Naphthalene	91-20-3	10	50	15	75	—	—	—
alpha-Naphthylamine; see 29 CFR 1910.1003	134-32-7							
beta-Naphthylamine; see 29 CFR 1910.1003	91-59-8							
Nickel carbonyl (as Ni)	13463-39-3	0.001	0.007	—	—	—	—	—
Nickel, metal and insoluble compounds (as Ni)	7440-02-0	—	1	—	—	—	—	—
Nickel, soluble compounds (as Ni)	7440-02-0	—	0.1	—	—	—	—	—
Nicotine	54-11-5	—	0.5	—	—	—	—	X
Nitric acid	7697-37-2	2	5	4	10	—	—	—
Nitric oxide	10102-43-9	25	30	—	—	—	—	—
p-Nitroaniline	100-01-6	—	3	—	—	—	—	X
Nitrobenzene	98-95-3	1	5	—	—	—	—	X
p-Nitrochlorobenzene	100-00-5	—	1	—	—	—	—	x
4-Nitrodiphenyl; see 29 CFR 1910.1003	92-93-3							
Nitroethane	79-24-3	100	310	—	—	—	—	—
Nitrogen dioxide	10102-44-0	—	—	1	1.8	—	—	—
Nitrogen trifluoride	7783-54-2	10	29	—	—	—	—	—
Nitroglycerin	55-63-0	—	—	—	0.1	—	—	X
Nitromethane	75-52-5	100	250	—	—	—	—	—
1-Nitropropane	108-03-2	25	90	—	—	—	—	—
2-Nitropropane	79--46-9	10	35	—	—	—	—	—
N-Nitrosodimethylamine; see 29 CFR 1910.1016	62-79-9							
Nitrotoluene								
o-isomer	88-72-2	2	11	—	—	—	—	X
m-isomer	99-08-1	2	11	—	—	—	—	X
p-isomer	99-99-0	2	11	—	—	—	—	X
Nitrotrichloromethane; see Chloropicin								

(Rule 0800-01-01-.07, continued)

Nonane	111-84-2	200	1050	—	—	—	—	—
Octachloronaphthalene	2234-13-1	—	0.1	—	0.3	—	—	X
Octane	111-65-9	300	1450	375	1800	—	—	—
Oil mist, mineral	8012-95-1	—	5	—	—	—	—	—
Osmium tetroxide (as Os)	20816-12-0	0.0002	0.002	0.0006	0.006	—	—	—
Oxalic acid	144-62-7	—	1	—	2	—	—	—
Oxygen difluoride	7783-41-7	—	—	—	—	0.05	0.1	—
Ozone	10028-15-6	0.1	0.2	0.3	0.6	—	—	—
Paraffin wax fume	8002-74-2	—	2	—	—	—	—	—
Paraquat, respirable dust	1910-42-5 4685-14-7 2074-50-2	—	0.1	—	—	—	—	X
Parathion	5838-2	—	0.1	—	—	—	—	X
Particulates not otherwise regulated								
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Pentaborane	19624-22-7	0.005	0.01	0.015	0.03	—	—	—
Pentachloronaphthalene	1321-64-8	—	0.5	—	—	—	—	X
Pentachlorophenol	87-86-5	—	0.5	—	—	—	—	X
Pentaerythritol	115-77-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Pentane	109-66-0	600	1800	750	2250	—	—	—
2-Pentanone (Methyl propyl ketone)	107-87-9	200	700	250	875	—	—	—
Perchloroethylene (Tetrachloroethylene)	127-18-4	25	170	—	—	—	—	—
Perchloromethyl mercaptan	594-42-3	0.1	0.8	—	—	—	—	—
Perchloryl fluoride	7616-94-6	3	14	6	28	—	—	—
Perlitte								
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Petroleum distillates (Naphtha) (Rubber Solvent)	—	400	1600	—	—	—	—	—
Phenol	108-95-2	5	19	—	—	—	—	X
Phenothiazine	92-84-2	—	5	—	—	—	—	X
p-Phenylene diamine	106-50-3	—	0.1	—	—	—	—	X
Phenyl ether, vapor	101-84-8	1	7	—	—	—	—	—
Phenyl ether-biphenyl mixture, vapor	—	1	7	—	—	—	—	—
Phenylethylene; see Styrene								
Phenyl glycidyl ether (PGE)	122-60-1	1	6	—	—	—	—	—
Phenylhydrazine	100-63-0	5	20	10	45	—	—	X
Phenyl mercaptan	108-98-5	0.5	2	—	—	—	—	—
Phenylphosphine	638-21-1	—	—	—	—	0.05	0.25	—
Phorate	298-02-2	—	0.05	—	0.2	—	—	X
Phosdrin (Mevinphos®)	7786-34-7	0.01	0.1	0.03	0.3	—	—	X
Phosgene (Carbonyl chloride)	75-44-5	0.1	0.4	—	—	—	—	—
Phosphine	7803-51-2	0.3	0.4	1	1	—	—	—
Phosphoric acid	7664-38-2	—	1	—	3	—	—	—
Phosphorus (yellow)	7723-14-0	—	0.1	—	—	—	—	—
Phosphorus oxychloride	10025-87-3	0.1	0.6	—	—	—	—	—
Phosphorus pentachloride	10026-13-8	—	1	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

Phosphorus pentasulfide	1314-80-3	—	1	—	3	—	—	—
Phosphorus trichloride	7719-12-2	0.2	1.5	0.5	3	—	—	—
Phthalic anhydride	85-44-9	1	6	—	—	—	—	—
m-Phthalodinitrile	626-17-5	—	5	—	—	—	—	—
Picloram	1918-02-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Picric acid	88-89-1	—	0.1	—	—	—	—	x
Piperazine dihydro-chloride	142-64-3	—	5	—	—	—	—	—
Pindone (2-Pivalyl-1,3-indandione)	83-26-1	—	0.1	—	—	—	—	—
Plaster of Paris	26499-65-0	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Platinum (as Pt)	7440-06-4	—	—	—	—	—	—	—
Metal	—	—	1	—	—	—	—	—
Soluble salts	—	—	0.002	—	—	—	—	—
Portland cement	65997-15-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Potassium hydroxide	1310-58-3	—	—	—	—	—	2	—
Propane	74-98-6	1000	1800	—	—	—	—	—
Propargl alcohol	107-19-7	1	2	—	—	—	—	X
beta-Propiolactone; see 29 CFR 1910.1013	57-57-8							
Propionic acid	79-09-4	10	30	—	—	—	—	—
Propoxur (Baygon)	114-26-1	—	0.5	—	—	—	—	—
n-Propyl acetate	109-60-40	200	840	250	1050	—	—	—
n-Propyl alcohol	71-23-8	200	500	250	625	—	—	—
n-Propyl nitrate	627-13-4	25	105	40	170	—	—	—
Propylene dichloride	78-87-5	75	360	110	510	—	—	—
Propylene glycol dinitrate	6423-43-4	0.05	0.3	—	—	—	—	—
Propylene glycol monomethyl ether	107-98-2	100	380	150	540	—	—	—
Propylene imine	75-55-8	2	5	—	—	—	—	X
Propylene oxide	75-56-9	20	50	—	—	—	—	—
Propyne; see Methyl acetylene								
Pyrethrum	8003-34-7	—	5	—	—	—	—	—
Pyridine	110-86-1	5	15	—	—	—	—	—
Quinone	106-51-4	0.1	0.4	—	—	—	—	—
Resorcinol	108-46-3	10	45	20	90	—	—	—
Rhodium (as Rh), metal fume and insoluble compounds	7440-16-6	—	0.1	—	—	—	—	—
Rhodium (as Rh), soluble compounds	744-16-6	—	0.001	—	—	—	—	—
Ronnel	299-84-3	—	10	—	—	—	—	—
Rosin core solder pyrolysis products, as formaldehyde	—	—	0.1	—	—	—	—	—
Rotenone	83-79-4	—	5	—	—	—	—	—
Rouge								
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Selenium compounds (as Se)	7782-49-2	—	0.2	—	—	—	—	—
Selenium hexafluoride (as Se)	7783-79-1	0.05	0.4	—	—	—	—	—
Silica, amorphous, precipitated and	112926-00-	—	6	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

gel	8							
Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica	61790-53-2	—	6	—	—	—	—	—
Silica, crystalline cristobalite, respirable dust, see 29 CFR 1910.1053	14464-46-1	—	—	—	—	—	—	—
Silica, crystalline quartz, respirable dust, see 29 CFR 1910.1053	14808-60-7	—	—	—	—	—	—	—
Silica, crystalline tripoli (as quartz), respirable dust, see 29 CFR 1910.1053	1317-95-9	—	—	—	—	—	—	—
Silica, crystalline tridymite, respirable dust, see 29 CFR 1910.1053	15468-32-3	—	—	—	—	—	—	—
Silica, fused, respirable dust	60676-86-0	—	0.1	—	—	—	—	—
Silicates (less than 1% (crystalline silica))								
Mica (respirable dust)	12001-26-2	—	3	—	—	—	—	—
Soapstone, total dust	—	—	6	—	—	—	—	—
Soapstone, respirable dust	—	—	3	—	—	—	—	—
Talc (containing asbestos); use asbestos limit See 29 CFR 1910.1001								
Talc (containing no asbestos); Respirable dust	14807-96-6	—	2	—	—	—	—	—
Tremolite (use asbestos limit); See 29 CFR 1910.1001								
Silicon	7440-21-3							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Silicon carbide	409-21-2							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Silicon tetrahydride	7803-62-5	5	7	—	—	—	—	—
Silver, metal and soluble compounds (as Ag)	7440-22-4	—	0.01	—	—	—	—	—
Soapstone; see Silicates								
Sodium azide	26628-22-8							
(as HN ₃)	—	—	—	—	—	0.1	—	X
(as NaN ₃)	—	—	—	—	—	—	0.3	X
Sodium bisulfite	7631-90-5	—	5	—	—	—	—	—
Sodium fluoroacetate	62-74-8	—	0.05	—	0.15	—	—	X
Sodium hydroxide	1310-73-2	—	—	—	—	—	2	—
Sodium metabisulphite	7681-57-4	—	5	—	—	—	—	—
Starch	9005-25-8							
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Stibine	7803-52-3	0.1	0.5	—	—	—	—	—
Stoddard solvent	8052-41-3	100	525	—	—	—	—	—
Strychnine	57-24-9	—	0.15	—	—	—	—	—
Styrene	100-42-5	50	215	100	425	—	—	—
Subtilisins (Protolytic enzymes) sample 600-800 lpm for at least 60	9014-01-1	—	—	—	0.00006	—	—	—

(Rule 0800-01-01-.07, continued)

minutes								
Sucrose	57-50-1	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Sulfur dioxide	7446-09-5	2	5	5	10	—	—	—
Sulfur hexafluoride	2551-62-4	1000	6000	—	—	—	—	—
Sulfuric acid	7664-93-9	—	1	—	—	—	—	—
Sulfur monochloride	10025-67-9	—	—	—	—	1	6	—
Sulfur pentafluoride	5714-22-7	—	—	—	—	0.01	0.1	—
Sulfur tetrafluoride	7783-60-0	—	—	—	—	0.1	0.4	—
Sulfuryl fluoride	2699-79-8	5	20	10	40	—	—	—
Sulprofos	35400-43-2	—	1	—	—	—	—	—
Systox®, see Demeton								
2,4,5-T	93-76-5	—	10	—	—	—	—	—
Talc; see Silicates								
Tantalum, metal and oxide dust	7440-25-7	—	5	—	—	—	—	—
TEDP (Sulfotep)	3689-24-5	—	0.2	—	—	—	—	X
Tellurium and compounds (as Te)	13494-80-9	—	0.1	—	—	—	—	—
Tellurium hexafluoride (as Te)	7783-80-4	0.02	0.2	—	—	—	—	—
Temephos	3383-96-8							
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
TEPP	107-49-3	—	0.05	—	—	—	—	X
Terphenyls	26140-60-3	—	—	—	—	0.5	5	—
1,1,1,2-Tetrachloro-2,2-difluoroethane	76-11-9	500	4170	—	—	—	—	—
1,1,2,2-Tetrachloro-1,2-difluoroethane	76-12-0	500	4170	—	—	—	—	—
1,1,2,2-Tetrachloroethane	79-34-5	1	7	—	—	—	—	X
Tetrachoroethylene; see Perchloroethylene								
Tetrachloromethane; see Carbon tetrachloride								
Tetrachloronaphthalene	1335-88-2	—	2	—	—	—	—	X
Tetraethyl lead (as Pb)	78-00-2	—	0.075	—	—	—	—	X
Tetrahydrofuran	109-99-9	200	590	250	735	—	—	—
Tetramethyl lead, (as Pb)	75-74-1	—	0.75	—	—	—	—	X
Tetramethyl succinonitrile	3333-52-6	0.5	3	—	—	—	—	X
Tetranitromethane	509-14-8	1	8	—	—	—	—	—
Tetrasodium pyrophosphate	7722-88-5	—	5	—	—	—	—	—
Tetryl (2,4,6-Trinitrophenyl-methyl-nitramine)	479-45-8	—	1.5	—	—	—	—	X
Thalium, Soluble compounds (as Tl)	7440-28-0	—	0.1	—	—	—	—	X
4,4'-Thiobis(6-tert, Butyl-m-cresol)	96-69-5	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Thioglycolic acid	68-11-1	1	4	—	—	—	—	X
Thionyl chloride	7719-09-7	—	—	—	—	1	5	—
Thiram	137-26-8	—	5	—	—	—	—	—
Tin, inorganic compounds (except oxides) (as Sn)	7440-31-5	—	2	—	—	—	—	—
Tin, organic compounds (as Sn)	7440-31-5	—	0.1	—	—	—	—	X
Tin oxide (as Sn)	21651-19-4	—	2	—	—	—	—	—

(Rule 0800-01-01-.07, continued)

Titanium dioxide	13463-67-7	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Toluene	108-88-3	100	375	150	580	—	—	—
Toluene-2,4-diisocyanate (TDI)	584-84-9	0.005	0.04	0.02	0.15	—	—	—
m-Toluidine	108-44-1	2	9	—	—	—	—	X
o-Toluidine	95-53-4	5	22	—	—	—	—	X
p-Toluidine	106-49-0	2	9	—	—	—	—	X
Toxaphene; see Chlorinated camphene								
Tremolite; see Silicates								
Tributyl phosphate	126-73-8	0.2	2.5	—	—	—	—	—
Trichloroacetic acid	76-03-9	1	7	—	—	—	—	—
1,2,4-Trichlorobenzene	120-82-1	—	—	—	—	5	40	—
1,1,1-Trichloroethane; see Methyl chloroform								
1,1,2-Trichloroethane	79-00-5	10	45	—	—	—	—	X
Trichloroethylene	79-01-6	50	270	200	1080	—	—	—
Trichloromethane; see Chloroform								
Trichloronaphthalene	1321-65-9	—	5	—	—	—	—	X
1,2,3-Trichloropropane	96-18-4	10	60	—	—	—	—	—
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	1000	7600	1250	9500	—	—	—
Triethylamine	121-44-8	10	40	15	60	—	—	—
Trifluorobromomethane	75-63-8	1000	6100	—	—	—	—	—
Trimellitic anhydride	552-30-7	0.005	0.04	—	—	—	—	—
Trimethylamine	75-50-3	10	24	15	36	—	—	—
Trimethyl benzene	25551-13-7	25	125	—	—	—	—	—
Trimethyl phosphite	121-45-9	2	10	—	—	—	—	—
2,4,6-Trinitrophenyl; see Picric acid								
2,4,6-Trinitrophenylmethyl nitamine; see Tetryl								
2,4,6-Trinitrotoluene (TNT)	118-96-7	—	0.5	—	—	—	—	X
Triorthocresyl phosphate	78-30-8	—	0.1	—	—	—	—	X
Triphenyl amine	603-34-9	—	5	—	—	—	—	—
Triphenyl phosphate	115-86-6	—	3	—	—	—	—	—
Tungsten (as W)	7440-33-7	—	—	—	—	—	—	—
Insoluble compounds	—	—	5	—	10	—	—	—
Soluble compounds	—	—	1	—	3	—	—	—
Turpentine	8006-64-2	100	560	—	—	—	—	—
Uranium (as U)	7440-61-1	—	—	—	—	—	—	—
Soluble compounds	—	—	0.05	—	—	—	—	—
Insoluble compounds	—	—	0.2	—	0.6	—	—	—
n-Valeraldehyde	110-62-3	50	175	—	—	—	—	—
Vanadium fume and	1314-62-1	—	—	—	—	—	—	—
Respirable dust (as V2O5)	—	—	0.05	—	—	—	—	—
Vegetable oil mist	—	—	—	—	—	—	—	—
Total dust	—	—	15	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Vinyl acetate	108-05-4	10	30	20	60	—	—	—
Vinyl benzene; see Styrene								
Vinyl bromide	593-60-2	5	20	—	—	—	—	—
Vinyl chloride; see 29 CFR 1910.1017	75-01-4	—	—	—	—	—	—	—
Vinyl cyanide; see Acrylonitrile								

(Rule 0800-01-01-.07, continued)

Vinyl cyclohexene dioxide	106-87-6	10	60	—	—	—	—	X
Vinylidene chloride (1,1-Dichloro-ethylene)	75-35-4	1	4	—	—	—	—	—
Vinyl toluene	24994	100	480	—	—	—	—	—
VM & P Naphtha	8032-32-4	300	1350	400	1800	—	—	—
Warfarin	81-81-2	—	0.1	—	—	—	—	—
Welding fumes (total particulate)	—	—	5	—	—	—	—	—
Wood dust, all soft and hard woods, except Western red cedar	—	—	5	—	10	—	—	—
Wood dust, Western red cedar	—	—	2.5	—	—	—	—	—
Xylenes (o-, m-, p-isomers)	1330-20-7	100	435	150	655	—	—	—
m-Xylene alpha, alpha-diamine	1477-55-0	—	—	—	—	—	0.1	X
Xylidine	1300-73-8	2	10	—	—	—	—	X
Yttrium	7440-65-5	—	1	—	—	—	—	—
Zinc chloride fume	7646-85-7	—	1	—	2	—	—	—
Zinc chromate (as CrO ₃)	Varies with compound	—	—	—	—	—	0.1	—
Zinc oxide fume	1314-13-2	—	5	—	10	—	—	—
Zinc oxide	1314-13-2	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Zinc stearate	557-05-1	—	—	—	—	—	—	—
Total dust	—	—	10	—	—	—	—	—
Respirable fraction	—	—	5	—	—	—	—	—
Zirconium compounds (as Zr)	7440-67-7	—	5	—	10	—	—	—

Authority: T.C.A. §§ 4-3-1411, 50-3-105, 50-3-201, and 50-3-202. **Administrative History:** Original rule filed January 15, 1977; effective February 13, 1977. Repeal and new rule filed September 15, 1977; effective October 14, 1977. Repeal and new rule filed March 31, 1983; effective June 15, 1983. Repeal and new rule filed August 13, 1999; effective December 29, 1999. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed April 21, 2004; August 27, 2004. Amendment filed November 16, 2006; effective date March 30, 2007. Amendments filed May 7, 2018; effective August 5, 2018.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-01-03
OCCUPATIONAL SAFETY AND HEALTH STANDARDS
RECORD-KEEPING AND REPORTING**

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0800-01-03-.01 PURPOSE.

- (1) The purpose of these rules is to require employers to record and report work-related fatalities, injuries and illnesses pursuant to T.C.A. §§ 50-3-701 and 50-3-702. For recording and reporting under these sections, the Commissioner of the Tennessee Department of Labor and Workforce Development adopts the forms prescribed by the Occupational Safety and Health Administration (OSHA), U. S. Department of Labor [see Rule 0800-01-03-.03(27)].
- (2) Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that a Tennessee Occupational Safety and Health Administration (TOSHA) rule has been violated, or that the employee is eligible for workers' compensation or other benefits.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-701, 50-3-702, 50-3-910, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed January 14, 1978; effective February 13, 1978. Amendment filed July 28, 1978; effective October 30, 1978. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed August 30, 2001; effective December 28, 2001.

0800-01-03-.02 SCOPE.

- (1) All employers covered by the Tennessee Occupational Safety and Health Act of 1972, as amended, (Act) are covered by these rules. However, most employers do not have to keep TOSHA injury and illness records unless TOSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping TOSHA injury and illness records.
- (2) Partial exemption for employers with 10 or fewer employees.
 - (a) Basic requirement.
 1. If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep TOSHA injury and illness records unless TOSHA or the BLS informs you in writing that you must keep records under Rule 0800-01-03-.05(3) or Rule 0800-01-03-05(4). However, as required by Rule 0800-01-03-.05(1), all employers covered by the Act must report to TOSHA any

(Rule 0800-01-03-.02, continued)

workplace incident that results in a fatality or the hospitalization of three or more employees.

2. If your company had more than ten (10) employees at any time during the last calendar year, you must keep TOSHA injury and illness records unless your establishment is classified as a partially exempt industry under Rule 0800-01-03-.02(2).

(b) Implementation.

1. Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment? The partial exemption for size is based on the number of employees in the entire company.
2. How do I determine the size of my company to find out if I qualify for the partial exemption for size? To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than 10 employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

(3) Partial exemption for establishments in certain industries.

(a) Basic requirement.

1. If your business establishment is classified in a specific industry group listed in Appendix A of Rule 0800-01-03-.02(4), you do not need to keep TOSHA injury and illness records unless the government asks you to keep the records under Rule 0800-01-03-.05(3) or Rule 0800-01-03-.05(4). However, all employers must report to TOSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-.05(1)].
2. If one or more of your company's establishments are classified in a non-exempt industry, you must keep TOSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under Rule 0800-01-03-.02(1).

(b) Implementation.

1. Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be partially exempt.
2. How do I determine the correct NAICS code for my company or for individual establishments? You determine your NAICS code by using one of three methods:
 - (i) You can use the search feature at the U.S. Census Bureau NAICS main webpage:<http://www.census.gov/eos/www/naics/>. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the

(Rule 0800-01-03-.02, continued)

corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

- (ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.
 - (iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main webpage: <http://www.census.gov/eos/www/naics/>. You may also contact your nearest TOSHA office for help in determining your NAICS Code.
- (4) Non-Mandatory Appendix A - Partially Exempt Industries. Employers are not required to keep TOSHA injury and illness records for any establishment classified in the following North American Industry Classification System (NAICS) codes, unless they are asked in writing to do so by TOSHA or the Bureau of Labor Statistics (BLS). All employers, including those partially exempted by reason of company size or industry classification, must report to TOSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye [see Rule 0800-01-03-.05(1)].

NAICS Code	Industry
4412	Other Motor Vehicle Dealers
4431	Electronics and Appliance Stores
4461	Health and Personal Care Stores
4471	Gasoline Stations
4481	Clothing Stores
4482	Shoe Stores
4483	Jewelry, Luggage, and Leather Goods Stores
4511	Sporting Goods, Hobby, and Musical Instrument Stores
4512	Book, Periodical, and Music Stores
4531	Florists
4532	Office Supplies, Stationery, and Gift Stores
4812	Nonscheduled Air Transportation
4861	Pipeline Transportation of Crude Oil
4862	Pipeline Transportation of Natural Gas
4869	Other Pipeline Transportation
4879	Scenic and Sightseeing Transportation, Other
4885	Freight Transportation Arrangement
5111	Newspaper, Periodical, Book, and Directory Publishers
5112	Software Publishers
5121	Motion Picture and Video Industries
5122	Sound Recording Industries
5151	Radio and Television Broadcasting
5172	Wireless Telecommunications Carriers (except

(Rule 0800-01-03-.02, continued)

	Satellite)
5173	Telecommunications Resellers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5191	Other Information Services
5211	Monetary Authorities - Central Bank
5221	Depository Credit Intermediation
5222	Nondepository Credit Intermediation
5223	Activities Related to Credit Intermediation
5231	Securities and Commodity Contracts Intermediation and Brokerage
5232	Securities and Commodity Exchanges
5239	Other Financial Investment Activities
5241	Insurance Carriers
5242	Agencies, Brokerages, and Other Insurance Related Activities
5251	Insurance and Employee Benefit Funds
5259	Other Investment Pools and Funds
5312	Offices of Real Estate Agents and Brokers
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)
5411	Legal Services
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services
5413	Architectural, Engineering, and Related Services
5414	Specialized Design Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services
5418	Advertising and Related Services
5511	Management of Companies and Enterprises
5611	Office Administrative Services
5614	Business Support Services
5615	Travel Arrangement and Reservation Services
5616	Investigation and Security Services
6111	Elementary and Secondary Schools
6112	Junior Colleges
6113	Colleges, Universities, and Professional Schools
6114	Business Schools and Computer and Management Training
6115	Technical and Trade Schools
6116	Other Schools and Instruction
6117	Educational Support Services
6211	Offices of Physicians
6212	Offices of Dentists
6213	Offices of Other Health Practitioners
6214	Outpatient Care Centers
6215	Medical and Diagnostic Laboratories
6244	Child Day Care Services
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures

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7115	Independent Artists, Writers, and Performers
7213	Rooming and Boarding Houses
7221	Full-Service Restaurants
7222	Limited-Service Eating Places
7224	Drinking Places (Alcoholic Beverages)
8112	Electronic and Precision Equipment Repair and Maintenance
8114	Personal and Household Goods Repair and Maintenance
8121	Personal Care Services
8122	Death Care Services
8131	Religious Organizations
8132	Grantmaking and Giving Services
8133	Social Advocacy Organizations
8134	Civic and Social Organizations
8139	Business, Professional, Labor, Political, and Similar Organizations

Authority: T.C.A. §§ 4-3-1411, 50-3-101, 50-3-103, 50-3-201, 50-3-701, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed August 30, 2001; effective December 28, 2001. Amendment filed June 30, 2003; effective October 28, 2003. Amendments filed November 26, 2014; effective February 24, 2015.

0800-01-03-.03 RECORDKEEPING FORMS AND RECORDING CRITERIA.

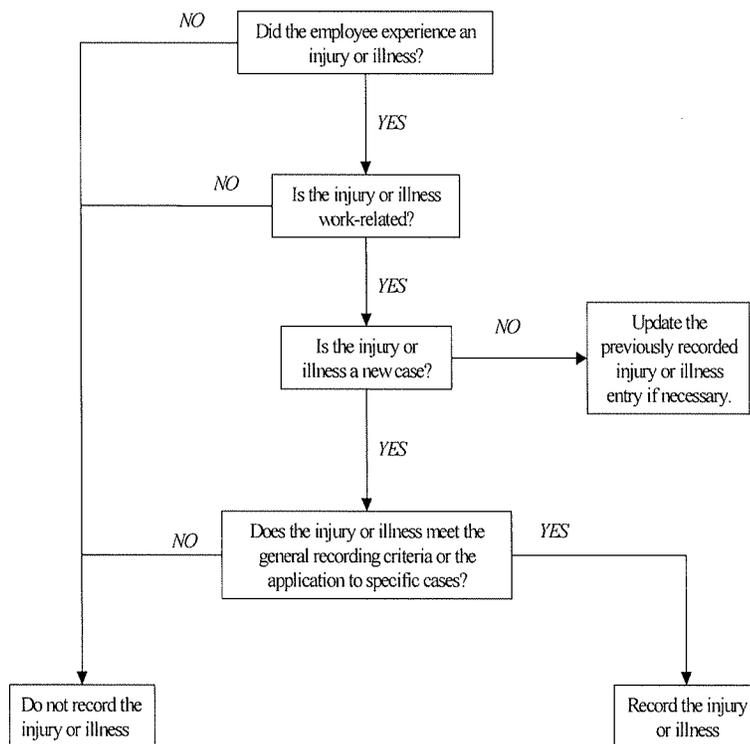
- (1) This rule describes the work-related injuries and illnesses that an employer must enter into the TOSHA records and explains the OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.
- (2) Recording criteria.
 - (a) Basic requirement. Each employer required by this rule to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:
 1. Is work-related; and
 2. Is a new case; and
 3. Meets one or more of the general recording criteria of Rule 0800-01-03-.03(4) or the application to specific cases of Rule 0800-01-03-.03(5) through Rule 0800-01-03-.03(9).
 - (b) Implementation.
 1. What subparts of this rule describe recording criteria for recording work-related injuries and illnesses? The table below indicates which sections of the rule address each topic.

(i) Determination of work-relatedness.	See Rule 0800-01-03-.03(2)
(ii) Determination of a new case.	See Rule

(Rule 0800-01-03-.03, continued)

	0800-01-03-.03(3)
(iii) General recording criteria.	See Rule 0800-01-03-.03(4)
(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases)	See Rule 0800-01-03-.03(5) through Rule 0800-01-03-.03(9)

2. How do I decide whether a particular injury or illness is recordable? The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.



(3) Determination of work-relatedness.

- (a) Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Rule 0800-01-03-.03(3)(b)2. specifically applies.

(Rule 0800-01-03-.03, continued)

(b) Implementation.

1. What is the “work environment”? TOSHA defines the work environment as “the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials used by the employee during the course of his or her work.”
2. Are there situations where an injury or illness occurs in the work environment and is not considered work-related? Yes, an injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and therefore is not recordable. You are not required to record injuries and illnesses if:
 - (i) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
 - (ii) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
 - (iii) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
 - (iv) The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer’s premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer’s establishment, the case would not be considered work-related. Note: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
 - (v) The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee’s assigned working hours.
 - (vi) The injury or illness is solely the result of personal grooming, self medication for a non-work-related condition, or is intentionally self-inflicted.
 - (vii) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
 - (viii) The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).
 - (ix) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with

(Rule 0800-01-03-.03, continued)

appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

3. How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work? In these situations, you must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.
4. How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness? A preexisting injury or illness has been significantly aggravated, for purposes of TOSHA injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:
 - (i) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.
 - (ii) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.
 - (iii) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.
 - (iv) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.
5. Which injuries and illnesses are considered pre-existing conditions? An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.
6. How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs? Injuries and illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer).

Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below.

	If the employee has ...	You may use the following to determine if an injury or illness is work-related.
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(Rule 0800-01-03-.03, continued)

(i)	Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel, or other temporary residence, he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
(ii)	Taken a detour for personal reasons.	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).

7. How do I decide if a case is work-related when the employee is working at home? Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

(4) Determination of new cases.

(a) Basic requirement. You must consider an injury or illness to be a "new case" if:

1. The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or
2. The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(b) Implementation.

(Rule 0800-01-03-.03, continued)

1. When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case? No, for occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis and silicosis.
2. When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case? Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.
3. May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case? You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

(5) General recording criteria.

(a) Basic requirement. You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation.

1. How do I decide if a case meets one or more of the general recording criteria? A work-related injury or illness must be recorded if it results in one or more of the following:

(i) Death,	See Rule 0800-01-03-.03(5)(b)2.
(ii) Days away from work,	See Rule 0800-01-03-.03(5)(b)3.
(iii) Restricted work or transfer to another job,	See Rule 0800-01-03-.03(5)(b)4.
(iv) Medical treatment beyond first aid,	See Rule 0800-01-03-.03(5)(b)5.

(Rule 0800-01-03-.03, continued)

(v) Loss of consciousness,	See Rule 0800-01-03- .03(5)(b)6.
(vi) A significant injury or illness diagnosed by a physician or other licensed health care professional.	See Rule 0800-01-03- .03(5)(b)7.

2. How do I record a work-related injury or illness that results in the employee's death? You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to TOSHA within eight (8) hours, as required by Rule 0800-01-03-.05(1).

3. How do I record a work-related injury or illness that results in days away from work? When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.
 - (i) Do I count the day on which the injury occurred or the illness began? No, you begin counting days away on the day after the injury occurred or the illness began.
 - (ii) How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway? You must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.
 - (iii) How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway? In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.
 - (iv) How do I count weekends, holidays, or other days the employee would not have worked anyway? You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of a work-related injury or illness.

(Rule 0800-01-03-.03, continued)

- (v) How do I record a case in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend? You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.
 - (vi) How do I record a case in which a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation, or a temporary plant closing? You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.
 - (vii) Is there a limit to the number of days away from work I must count? Yes, you may "cap" the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.
 - (viii) May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company? Yes, if the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.
 - (ix) If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years? No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.
4. How do I record a work-related injury or illness that results in restricted work or job transfer? When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted workdays column.

(Rule 0800-01-03-.03, continued)

- (i) How do I decide if the injury or illness resulted in restricted work? Restricted work occurs when, as the result of a work-related injury or illness:
 - (I) You keep the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or
 - (II) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.
- (ii) What is meant by "routine functions"? For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.
- (iii) Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began? No, you do not have to record restricted work or job transfers if you, or the physician or other licensed health care professional, impose the restriction or transfer only for the day on which the injury occurred or the illness began.
- (iv) If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case? No, a recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and you must record the case.
- (v) How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness? A partial day of work is recorded as a day of job transfer or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.
- (vi) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case? No, the case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.
- (vii) How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in "light duty" or "take it easy for a week"? If you are not clear about the physician or other licensed health care professional's recommendation, you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded as such. If the answer

(Rule 0800-01-03-.03, continued)

to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional who recommended the restriction, record the injury or illness as a case involving restricted work.

- (viii) What do I do if a physician or other licensed health care professional recommends a job restriction meeting TOSHA's definition, but the employee does all of his or her routine job functions anyway? You must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.
 - (ix) How do I decide if an injury or illness involved a transfer to another job? If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job. Note: This does not include the day on which the injury or illness occurred.
 - (x) Are transfers to another job recorded in the same way as restricted work cases? Yes, both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.
 - (xi) How do I count days of job transfer or restriction? You count days of job transfer or restriction in the same way you count days away from work, using Rule 0800-01-03-.03(5)(b)3.(i) to (viii), above. The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases.
5. How do I record an injury or illness that involves medical treatment beyond first aid? If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.
- (i) What is the definition of medical treatment? "Medical treatment" means the management and care of a patient to combat disease or disorder. For the purposes of this rule medical treatment does not include:
 - (I) Visits to a physician or other licensed health care professional solely for observation or counseling;

(Rule 0800-01-03-.03, continued)

- (II) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or
 - (III) "First aid" as defined in subpart (ii) below.
- (ii) What is "first aid"? For the purposes of this rule, "first aid" means the following:

(I)	Using a nonprescription medication at nonprescription strength (for medications available in both prescription and nonprescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);
(II)	Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);
(III)	Cleaning, flushing or soaking wounds on the surface of the skin;
(IV)	Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc. are considered medical treatment);
(V)	Using hot or cold therapy;
(VI)	Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);
(VII)	Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.).
(VIII)	Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;
(IX)	Using eye patches;
(X)	Removing foreign bodies from the eye using only irrigation or a cotton swab;
(XI)	Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(Rule 0800-01-03-.03, continued)

(XII)	Using finger guards;
(XIII)	Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or
(XIV)	Drinking fluids for relief of heat stress.

- (iii) Are any other procedures included in first aid? No, this is a complete list of all treatments considered first aid for the purposes of this rule.
 - (iv) Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment? No, the treatments listed in Rule 0800-01-03-.03(4)(b)5.(ii) are considered to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of this rule. Similarly, treatments beyond first aid are considered to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.
 - (v) What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation? If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.
6. Is every work-related injury or illness case involving a loss of consciousness recordable? Yes, you must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.
 7. What is a "significant" diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness? Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.
 8. Most significant injuries and illnesses will result in one of the criteria listed in Rule 0800-01-03-.03(4)(a): death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or a fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses. Cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial

(Rule 0800-01-03-.03, continued)

diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

- (6) Recording criteria for needlestick and sharps injuries.
- (a) Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030 as adopted by Rule 0800-01-01-.06). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in Rules 0800-01-03-.03(27)(b)6. through Rule 0800-01-03-.03(27)(b)9.
- (b) Implementation.
1. What does "other potentially infectious material" mean? The term "other potentially infectious materials" is defined in the OSHA Bloodborne Pathogens standard at § 1910.1030(b) as adopted by Rule 0800-01-01-.06. These materials include:
 - (i) Human bodily fluids, tissues and organs, and
 - (ii) Other materials infected with the HIV or hepatitis B (HBV) virus such as laboratory cultures or tissues from experimental animals.
 2. Does this mean that I must record all cuts, lacerations, punctures, and scratches? No, you need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in Rule 0800-01-03-.03(4).
 3. If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 log? Yes, you must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.
 4. What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident? You need to record such an incident on the OSHA 300 Log as an illness if:
 - (i) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or
 - (ii) It meets one or more of the recording criteria in Rule 0800-01-03-.03(4).
- (7) Recording criteria for cases involving medical removal under OSHA standards as adopted by Rule 0800-01-01-.06.
- (a) Basic requirement. If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case on the OSHA 300 Log.

(Rule 0800-01-03-.03, continued)

(b) Implementation.

1. How do I classify medical removal cases on the OSHA 300 Log? You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.
2. Do all of OSHA's standards have medical removal provisions? No, some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions. Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to, lead, cadmium, methylene chloride, formaldehyde, and benzene.
3. Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in an OSHA standard are met? No, if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard, you do not need to record the case on the OSHA 300 Log.

(8) Recording criteria for cases involving occupational hearing loss.

- (a) Basic requirement. If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

(b) Implementation.

1. What is a Standard Threshold Shift? A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as adopted by Rule 0800-01-01-.06 as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears.
2. How do I evaluate the current audiogram to determine whether an employee has an STS and a 25-dB hearing level?
 - (i) STS. If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).
 - (ii) 25-dB loss. Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

(Rule 0800-01-03-.03, continued)

3. May I adjust the current audiogram to reflect the effects of aging on hearing? Yes. When you are determining whether an STS has occurred, you may age adjust the employee's current audiogram results by using Tables F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95 as adopted by Rule 0800-01-01-.06. You may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.
 4. Do I have to record the hearing loss if I am going to retest the employee's hearing? No, if you retest the employee's hearing within 30 days of the first test, and the retest does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the retest confirms the recordable STS, you must record the hearing loss illness within seven (7) calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the 1910.95 noise standard indicates that an STS is not persistent, you may erase or line-out the recorded entry.
 5. Are there any special rules for determining whether a hearing loss case is work-related? No. You must use the requirements in Rule 0800-01-03-.03(3) to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work related.
 6. If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case? If a physician or other licensed health care professional determines following the rules set out in Rule 0800-01-03-.03(3), that the hearing loss is not work-related or has not been significantly aggravated by that occupational noise exposure did not significantly aggravate the hearing loss, you are do not required have to consider the case work-related or to record the case on the OSHA 300 Log.
 7. How do I complete the 300 Log for a hearing loss case? When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the 300 Log column for hearing loss.
 8. Rule 0800-01-03-.03(8)(b)7. is effective beginning January 1, 2004.
- (9) Recording criteria for work-related tuberculosis cases.
- (a) Basic requirement. If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the "respiratory condition" column.
 - (b) Implementation.
 1. Do I have to record, on the Log, a positive TB skin test result obtained at a pre-employment physical? No, you do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(Rule 0800-01-03-.03, continued)

2. May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure? Yes, you may line-out or erase the case from the Log under the following circumstances:
 - (i) The worker is living in a household with a person who has been diagnosed with active TB;
 - (ii) The Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or
 - (iii) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(10) through (26) Reserved.

(27) Forms.

- (a) Basic requirement. You must use OSHA 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.
- (b) Implementation.
 1. What do I need to do to complete the OSHA 300 Log? You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness, and summarize this information on the OSHA 300-A at the end of the year.
 2. What do I need to do to complete the OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.
 3. How quickly must each injury or illness be recorded? You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven (7) calendar days of receiving information that a recordable injury or illness has occurred.
 4. What is an equivalent form? An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by TOSHA.
 5. May I keep my records on a computer? Yes, if the computer can produce equivalent forms when they are needed, as described under Rule 0800-01-03-.04(6) and Rule 0800-01-03-.05(2), you may keep your records using the computer system.
 6. Are there situations where I do not put the employee's name on the forms for privacy reasons? Yes, if you have a "privacy concern case," you may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the

(Rule 0800-01-03-.03, continued)

injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under Rule 0800-01-03-.04(6)(b)2. You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

7. How do I determine if an injury or illness is a privacy concern case? You must consider the following injuries or illnesses to be privacy concern cases:
 - (i) An injury or illness to an intimate body part or the reproductive system;
 - (ii) An injury or illness resulting from a sexual assault;
 - (iii) Mental illnesses;
 - (iv) HIV infection, hepatitis, or tuberculosis;
 - (v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material [see Rule 0800-01-03-.03(5) for definitions]; and
 - (vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.
8. May I classify any other types of injuries and illnesses as privacy concern cases? No, this is a complete list of all injuries and illnesses considered privacy concern cases for the purposes of this rule.
9. If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do to further protect the employee's privacy? Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."
10. What must I do to protect employee privacy if I wish to provide access to the OSHA Forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives? If you decide to voluntarily disclose the Forms to persons other than government representatives, employees, former employees or authorized representatives (as required by Rule 0800-01-03-.04(6) and Rule 0800-01-03-.05(2)), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the Forms with personally identifying information only:
 - (i) To an auditor or consultant hired by the employer to evaluate the safety and health program;

(Rule 0800-01-03-.03, continued)

- (ii) To the extent necessary for processing a claim for workers' compensation or other insurance benefits; or
- (iii) To a public health authority or law enforcement agency for uses and disclosures for which consent, an authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-701, 50-3-702, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed August 30, 2001; effective December 28, 2001. Amendment filed September 13, 2002; effective January 28, 2003. Amendment filed February 12, 2003; effective June 27, 2003. Amendment filed June 30, 2003; effective October 28, 2003. Amendment filed September 18, 2003; effective January 28, 2004. Amendments filed March 23, 2017; effective June 21, 2017.

0800-01-03-.04 OTHER TOSHA INJURY AND ILLNESS RECORDKEEPING REQUIREMENTS.

- (1) Multiple business establishments.
 - (a) Basic requirement. You must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.
 - (b) Implementation.
 - 1. Do I need to keep TOSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)? Yes, however, you do not have to keep a separate OSHA 300 Log for each such establishment. You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments' recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.
 - 2. May I keep the records for all of my establishments at my headquarters location or at some other central location? Yes, you may keep the records for an establishment at your headquarters or other central location if you can:
 - (i) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and
 - (ii) Produce and send the records from the central location to the establishment within the time frames required by Rule 0800-01-03-.04(6) and Rule 0800-01-03-.05(2) when you are required to provide records to a government representative, employees, former employees or employee representatives.
 - 3. Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees? You must link each of your employees with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment, or on an OSHA 300 Log that covers that employee's short-term establishment.

(Rule 0800-01-03-.04, continued)

4. How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments? If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(2) Covered employees.

- (a) Basic requirement. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal, or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(b) Implementation.

1. If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness? No, self-employed individuals are not covered by the Act or this rule.
2. If I obtain employees from a temporary help service, employee leasing service, or personnel supply service, do I have to record an injury or illness occurring to one of those employees? You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.
3. If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee? If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.
4. Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased or contract employees that I supervise on a day-to-day basis? No, you and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once: either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employer's OSHA 300 Log (if that company provides day-to-day supervision).

(3) Annual summary.

- (a) Basic requirement. At the end of each calendar year, you must:

1. Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;
2. Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;

(Rule 0800-01-03-.04, continued)

3. Certify the summary; and
 4. Post the annual summary.
- (b) Implementation.
1. How extensively do I have to review the OSHA 300 Log entries at the end of the year? You must review the entries as extensively as necessary to make sure that they are complete and correct.
 2. How do I complete the annual summary? You must:
 - (i) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and
 - (ii) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.
 - (iii) If you are using an equivalent form other than the OSHA 300-A summary form, the summary you use must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.
 3. How do I certify the annual summary? A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded, that the annual summary is correct and complete.
 4. Who is considered a company executive? The company executive who certifies the log must be one of the following persons:
 - (i) An owner of the company (only if the company is a sole proprietorship or partnership);
 - (ii) An officer of the corporation;
 - (iii) The highest ranking company official working at the establishment; or
 - (iv) The immediate supervisor of the highest ranking company official working at the establishment.
 5. How do I post the annual summary? You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.
 6. When do I have to post the annual summary? You must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.
- (4) Retention and updating.

(Rule 0800-01-03-.04, continued)

- (a) Basic requirement. You must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five (5) years following the end of the calendar year that these records cover.
- (b) Implementation.
 - 1. Do I have to update the OSHA 300 Log during the five-year storage period? Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.
 - 2. Do I have to update the annual summary? No, you are not required to update the annual summary, but you may do so if you wish.
 - 3. Do I have to update the OSHA 301 Incident Reports? No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish.
- (5) Change in business ownership. If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which you owned the establishment. You must transfer the records required by these rules to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by Rule 0800-01-03-.04(4), but need not update or correct the records of the prior owner.
- (6) Employee involvement.
 - (a) Basic requirement. Your employees and their representatives must be involved in the recordkeeping system in several ways.
 - 1. You must inform each employee of how he or she is to report a work-related injury or illness to you.
 - 2. You must provide employees with the information described in paragraph (b)1.(iii) of this rule.
 - 3. You must provide access to your injury and illness records for your employees and their representatives as described in paragraph (b)2. of this rule.
 - (b) Implementation.
 - 1. What must I do to make sure that employees report work-related injuries and illnesses to me?
 - (i) You must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;
 - (ii) You must inform each employee of your procedure for reporting work-related injuries and illnesses;
 - (iii) You must inform each employee that:

(Rule 0800-01-03-.04, continued)

- (I) Employees have the right to report work-related injuries and illnesses; and
 - (II) Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses; and
 - (iv) You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.
2. Do I have to give my employees and their representatives access to the TOSHA injury and illness records? Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the TOSHA injury and illness records, with some limitations, as discussed below.
- (i) Who is an authorized employee representative? An authorized employee representative is an authorized collective bargaining agent of employees.
 - (ii) Who is a "personal representative" of an employee or former employee? A personal representative is:
 - (I) Any person that the employee or former employee designates as such, in writing; or
 - (II) The legal representative of a deceased or legally incapacitated employee or former employee.
 - (iii) If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies of your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.
 - (iv) May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative? No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in Rules 0800-01-03-.03(27)(b)6. through Rule 0800-01-03-.03(27)(b)9.
 - (v) If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?
 - (I) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.
 - (II) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent

(Rule 0800-01-03-.04, continued)

represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case." You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative.

- (vi) May I charge for the copies? No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.
- (7) In addition to 0800-01-03-.04(6), T.C.A. § 50-3-409 also prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to 0800-01-03 records, or otherwise exercises any rights afforded by the TOSH Act.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-409, 50-3-701, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Repeal and new rule filed August 30, 2001; effective December 28, 2001. Amendments filed August 26, 2016; effective November 24, 2016.

0800-01-03-.05 REPORTING FATALITY, INJURY AND ILLNESS INFORMATION.

- (1) Reporting fatalities and multiple hospitalization incidents to TOSHA.
 - (a) Basic requirement.
 - 1. Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the TOSHA Division of the Tennessee Department of Labor and Workforce Development.
 - 2. Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to TOSHA.
 - 3. You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:
 - (i) By telephone or in person to the TOSHA Area Office that is nearest to the site of the incident.
 - (ii) By telephone to the TOSHA toll-free central telephone number, 1-800-249-8510.
 - (iii) By electronic submission using the reporting application located on OSHA's public website at www.osha.gov.
 - (b) Implementation.
 - 1. If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on TOSHA's answering

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machine, faxing the Area Office, or sending an e-mail? No, if the Area Office is closed, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye using either the 800 number or the reporting application located on OSHA's public website at www.osha.gov.

2. What information do I need to give to TOSHA about the in-patient hospitalization, amputation, or loss of an eye? You must give TOSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:
 - (i) The establishment name;
 - (ii) The location of the work-related incident;
 - (iii) The time of the work-related incident;
 - (iv) The type of reportable event (i.e., fatality, in-patient hospitalization, amputation, or loss of an eye);
 - (v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
 - (vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;
 - (vii) Your contact person and his or her phone number; and
 - (viii) A brief description of the work-related incident.
3. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
4. Do I have to report the fatality, in-patient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to TOSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.
5. Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack? Yes, your local TOSHA Area Office supervisor will decide whether to investigate the event, depending on the circumstances of the heart attack.
6. What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must only report a fatality to TOSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to TOSHA if it occurs within twenty-four (24) hours of the

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work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

7. What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to TOSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
8. What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to TOSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.
9. How does TOSHA define "in-patient hospitalization"? TOSHA defines in-patient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.
10. Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to TOSHA each in-patient hospitalization that involves care or treatment.
11. How does TOSHA define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, degloving, scalping, severed ears, or broken or chipped teeth.

(2) Providing records to government representatives.

(a) Basic requirement. When an authorized government representative asks for the records you keep under this rule, you must provide copies of the records within four (4) business hours.

(b) Implementation.

1. What government representatives have the right to get copies of my injury and illness records? The government representatives authorized to receive the records are:

- (i) A representative of the Commissioner of Labor and Workforce Development conducting an inspection or investigation under the Act;

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- (ii) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health - NIOSH) conducting an investigation under Section 20(b) of the Occupational Safety and Health Act of 1970, as amended.
 2. Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone? TOSHA will consider your response to be timely if you give the records to the government representative within four (4) business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.
- (3) Electronic submission of injury and illness records to OSHA.
- (a) Basic requirements.
 1. Annual electronic submission of 0800-01-03 records by establishments with 250 or more employees. If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (3)(c) of this rule of the year after the calendar year covered by the forms.
 2. Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 20 or more employees but fewer than 250 employees in designated industries. If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to 0800-01-03-.05 of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (3)(c) of this rule of the year after the calendar year covered by the form.
 3. Electronic submission of 0800-01-03 records upon notification. Upon notification, you must electronically submit the requested information from your 0800-01-03 records to OSHA or OSHA's designee.
 - (b) Implementation.
 1. Does every employer have to routinely submit information from the injury and illness records to OSHA? No, only two categories of employers must routinely submit information from their injury and illness records. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required Form 300A, 300, and 301 information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to 0800-01-03-.05 of this part, then you must submit the required Form 300A information to OSHA once a year. Employers in these two categories must submit the required

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information by the date listed in paragraph (3)(c) of this rule of the year after the calendar year covered by the form or forms (for example, 2017 for the 2016 forms). If you are not in either of these two categories, then you must submit information from the injury and illness records to OSHA only if OSHA notifies you to do so for an individual data collection.

2. If I have to submit information under paragraph (a)1. of this rule, do I have to submit all of the information from the recordkeeping form? No, you are required to submit all of the information from the form except the following:
 - (i) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).
 - (ii) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).
3. Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (3)(a) of this rule? Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.
4. How will OSHA notify me that I must submit information from the injury and illness records as part of an individual data collection under paragraph (3)(a)3. of this rule? OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (3)(a)3. OSHA will also announce individual data collections through publication in the Federal Register and the OSHA newsletter, and announcements on the OSHA Web site. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.
5. How often do I have to submit the information from the injury and illness records? If you are required to submit information under paragraph (3)(a)1. or 2. of this rule, then you must submit the information once a year, by the date listed in paragraph (3)(c) of this rule of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (3)(a)3. of this rule then you must submit the information as often as specified in the notification.
6. How do I submit the information? You must submit the information electronically. OSHA will provide a secure Web site for the electronic submission of information. For individual data collections under paragraph (3)(a)3. of this rule, OSHA will include the Web site's location in the notification for the data collection.
7. Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records? If you are partially exempt from keeping injury and illness records under 0800-01-03-.02(2) and/or 0800-01-03-.02(3), then you do not have to routinely submit 0800-01-03 information under paragraphs (3)(a)1. and 2. of this rule. You will have to submit information under paragraph (3)(a)3. of this rule if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

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8. Do I have to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.
9. May an enterprise or corporate office electronically submit 0800-01-03 records for its establishment(s)? Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (3)(a)1. or 2. of this rule, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

(c) Reporting dates.

1. In 2017 and 2018, establishments required to submit under paragraph (3)(a)1. or 2. of this rule must submit the required information according to the table in this paragraph (3)(c)1:

Submission Year	Establishments submitting under paragraph (3)(a)1. of this rule must submit the required information from this form/these forms	Establishments submitting under paragraph (3)(a)2. of this rule must submit the required information from this form:	Submission deadline
2017	300A	300A	July 1, 2017
2018	300A, 300, 301	300A	July 1, 2018

2. Beginning in 2019, establishments that are required to submit under paragraph (3)(a)1. or 2. of this rule will have to submit all of the required information by March 2 of the year after the calendar year covered by the form or forms (for example, by March 2, 2019, for the forms covering 2018).

Appendix A to 0800-01-03-.05—Designated Industries for 0800-01-03-.05(3)(a)2. Annual Electronic Submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by Establishments With 20 or More Employees but Fewer Than 250 Employees in Designated Industries

NAICS	Industry
11	Agriculture, forestry, fishing and hunting.
22	Utilities.
23	Construction.
31-33	Manufacturing.
42	Wholesale trade.
4413	Automotive parts, accessories, and tire stores.
4421	Furniture stores.
4422	Home furnishings stores.
4441	Building material and supplies dealers.
4442	Lawn and garden equipment and supplies stores.
4451	Grocery stores.
4452	Specialty food stores.
4521	Department stores.
4529	Other general merchandise stores.
4533	Used merchandise stores.
4542	Vending machine operators.
4543	Direct selling establishments.

(Rule 0800-01-03-.05, continued)

4811	Scheduled air transportation.
4841	General freight trucking.
4842	Specialized freight trucking.
4851	Urban transit systems.
4852	Interurban and rural bus transportation.
4853	Taxi and limousine service.
4854	School and employee bus transportation.
4855	Charter bus industry.
4859	Other transit and ground passenger transportation.
4871	Scenic and sightseeing transportation, land.
4881	Support activities for air transportation.
4882	Support activities for rail transportation.
4883	Support activities for water transportation.
4884	Support activities for road transportation.
4889	Other support activities for transportation.
4911	Postal service.
4921	Couriers and express delivery services.
4922	Local messengers and local delivery.
4931	Warehousing and storage.
5152	Cable and other subscription programming.
5311	Lessors of real estate.
5321	Automotive equipment rental and leasing.
5322	Consumer goods rental.
5323	General rental centers.
5617	Services to buildings and dwellings.
5621	Waste collection.
5622	Waste treatment and disposal.
5629	Remediation and other waste management services.
6219	Other ambulatory health care services.
6221	General medical and surgical hospitals.
6222	Psychiatric and substance abuse hospitals.
6223	Specialty (except psychiatric and substance abuse) hospitals.
6231	Nursing care facilities.
6232	Residential mental retardation, mental health and substance abuse facilities.
6233	Community care facilities for the elderly.
6239	Other residential care facilities.
6242	Community food and housing, and emergency and other relief services.
6243	Vocational rehabilitation services.
7111	Performing arts companies.
7112	Spectator sports.
7121	Museums, historical sites, and similar institutions.
7131	Amusement parks and arcades.
7132	Gambling industries.
7211	Traveler accommodation.

(Rule 0800-01-03-.05, continued)

7212	RV (recreational vehicle) parks and recreational camps.
7213	Rooming and boarding houses.
7223	Special food services.
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance.
8123	Dry-cleaning and laundry services.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-701, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Repeal and new rule filed August 30, 2001; effective December 28, 2001. Amendment filed November 26, 2014; effective February 24, 2015. Amendments filed August 26, 2016; effective November 24, 2016.

0800-01-03-.06 TRANSITION FROM THE FORMER RULE.

- (1) Summary and posting of the 2001 data.
 - (a) Basic requirement. If you were required to keep OSHA 200 Logs in 2001, you must post a 2001 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment.
 - (b) Implementation.
 1. What do I have to include in the summary?
 - (i) You must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:
 - (I) The calendar year covered;
 - (II) Your company name;
 - (III) The name and address of the establishment; and
 - (IV) The certification signature, title and date.
 - (ii) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the totals line and post the 2001 summary.
 2. When am I required to summarize and post the 2001 information?
 - (i) You must complete the summary by February 1, 2002; and
 - (ii) You must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the summary is not altered, defaced or covered by other material.
 3. You must post the 2001 summary from February 1, 2002 to March 1, 2002.
- (2) Retention and updating of old forms. You must save your copies of the OSHA 200 and 101 forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. You are not required to update your old 200 and 101 forms.

(Rule 0800-01-03-.06, continued)

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-701, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Repeal and new rule filed August 30, 2001; effective December 28, 2001.

0800-01-03-.07 DEFINITIONS.

(1) Definitions.

- (a) Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.
1. Can one business location include two or more establishments? Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when:
 - (i) Each of the establishments represents a distinctly separate business;
 - (ii) Each business is engaged in a different economic activity;
 - (iii) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and
 - (iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.
 2. Can an establishment include more than one physical location? Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:
 - (i) The employer operates the locations as a single business operation under common management;
 - (ii) The locations are all located in close proximity to each other; and
 - (iii) The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.
 3. If an employee telecommutes from home, is his or her home considered a separate establishment? No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not

(Rule 0800-01-03-.07, continued)

required. Employees who telecommute must be linked to one of your establishments under Rule 0800-01-03-.04(1)(b)3.

- (b) Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries and illnesses are recordable only if they are new, work-related cases that meet one or more of the recording criteria.)
- (c) Physician or Other Licensed Health Care Professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.
- (d) You. "You" means an employer as defined in T.C.A. § 50-3-103(8).

Authority: T.C.A. §§ 4-3-1411, 50-3-201, 50-3-701, and 50-3-917. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Repeal and new rule filed August 30, 2001; effective December 28, 2001.

0800-01-03-.08 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed January 14, 1978; effective February 13, 1978. Amendment filed October 3, 1978; effective January 29, 1979. Amendment filed November 25, 1983; effective February 13, 1984. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.09 REPEALED.

Authority: T.C.A. §§ 50-3-201, 50-3-307, 50-3-402, 50-3-502, and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed January 3, 1975; effective February 2, 1975. Amendment filed January 26, 1976; effective April 15, 1976. Amendment filed November 25, 1983; effective February 13, 1984. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.10 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.11 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.12 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed May 12, 1994; effective September 28, 1994. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.13 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed July 15, 1977; effective August 15, 1977. Amendment filed November 25, 1983;

effective February 13, 1984. Amendment filed May 24, 1994; effective September 28, 1994. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.14 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Amendment filed March 17, 1978; effective April 16, 1978. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.15 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 10, 1974. Repeal filed August 30, 2001; effective December 28, 2001. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.16 REPEALED.

Authority: T.C.A. §§ 50-3-201 and 50-3-701. **Administrative History:** Original rule certified June 30, 1974. Amendment filed January 26, 1976; effective April 15, 1976. Amendment filed June 14, 1977; effective July 14, 1977. Amendment filed March 17, 1978; effective April 16, 1978. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.17 REPEALED.

Authority: T.C.A. §§ 50-3-201, 50-3-402, 50-3-405, and 50-3-702. **Administrative History:** Original rule certified June 10, 1974. Amendment filed January 3, 1975; effective February 2, 1975. Amendment filed January 26, 1976; effective April 15, 1976. Amendment filed November 25, 1983; effective February 13, 1984. Repeal filed August 30, 2001; effective December 28, 2001.

0800-01-03-.18 REPEALED.

Authority: T.C.A. §§ 50-3-201, 50-3-303, and 50-3-701. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Amendment filed March 11, 1985; effective June 14, 1985. Repeal filed August 30, 2001; effective December 28, 2001.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-01-06
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS FOR CONSTRUCTION**

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0800-01-06-.01	Definition	0800-01-06-.03	Exceptions to Adoption of Federal Standards in 29 CFR Part 1926
0800-01-06-.02	Adoption and Citation of Federal Standards	0800-01-06-.04	Repealed

0800-01-06-.01 DEFINITION. As used in this chapter, unless the context clearly otherwise requires:

- (1) "Construction work" means work for construction, alteration, and/or repair including painting and decorating, erection of new electric transmission and distribution lines and equipment, and the alteration, conversion, and improvement of existing electric transmission and distribution lines and equipment.

Authority: T.C.A. §§ 4-3-1411, 50-3-201, and 50-3-202. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-06-.02 ADOPTION AND CITATION OF FEDERAL STANDARDS.

- (1) The federal occupational safety and health standards adopted by the Commissioner of Labor and Workforce Development in this chapter shall be cited using the designation in Title 29, Code of Federal Regulations, Part 1926, i.e., 29 CFR 1926 .50(a), 29 CFR 1926.651(c)(1)(ii), etc. Where adoption to the current Title 29, Code of Federal Regulations, Part 1926, is an exception, the citation shall be to 29 CFR 1926 as published in the Federal Register or to the appropriate rule in this chapter. See Rule 0800-01-06-.03 for exceptions.
- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1926, as of ~~January 1, 2019~~ November 1, 2019 except as provided in Rule 0800-01-06-.03 of this chapter.

Authority: T.C.A. §§ 4-3-1411, 50-3-103, and 50-3-201. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Amendment filed November 25, 1983; effective February 13, 1984. Amendment filed August 13, 1999; effective December 29, 1999. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed September 13, 2002; effective January 28, 2003. Amendment filed November 25, 2002; effective March 28, 2003. Amendment filed May 14, 2003; effective September 26, 2003. Amendment filed November 13, 2003; effective March 29, 2004. Amendment filed April 21, 2004; August 27, 2004. Amendment filed September 7, 2004; effective January 28, 2005. Amendment filed February 16, 2005; effective June 28, 2005. Amendment filed September 12, 2005; effective January 27, 2006. Amendment filed April 26, 2006; effective August 28, 2006. Amendment filed November 16, 2006; effective date March 30, 2007. Amendment filed April 5, 2007; effective August 28, 2007. Amendment filed October 17, 2007; effective February 28, 2008. Amendment filed February 21, 2008; effective June 27, 2008. Amendment filed September 22, 2008; effective January 28, 2009. Amendment filed March 9, 2009; effective July 29, 2009. Amendment filed August 19, 2009; effective January 29, 2010. Amendment filed February 12, 2010; effective July 29, 2010. Amendment filed October 1, 2010; effective March 31, 2011. Amendment filed April 4, 2011; effective September 28, 2011. Amendment filed September 23, 2011;

(Rule 0800-01-06-.02, continued)

effective February 28, 2012. Amendment filed April 25, 2012; effective September 28, 2012. Amendment filed August 9, 2012; effective January 29, 2013. Amendment filed April 3, 2013; effective September 28, 2013. Amendment filed October 10, 2013; effective March 31, 2014. Amendment filed April 2, 2014; effective September 28, 2014. Amendment filed September 19, 2014; effective December 18, 2014. Amendment filed May 1, 2015; effective July 30, 2015. Amendment filed September 1, 2015; effective November 30, 2015. Amendment filed April 14, 2016; effective July 13, 2016. Amendments filed October 31, 2016; effective January 29, 2017. Amendment filed April 24, 2017; effective July 23, 2017. Amendment filed November 6, 2017; effective February 4, 2018. Amendments filed June 8, 2018; effective September 6, 2018. Amendments filed October 8, 2018; effective January 6, 2019.

0800-01-06-.03 EXCEPTIONS TO ADOPTION OF FEDERAL STANDARDS IN 29 CFR PART 1926.

- (1) The Commissioner of Labor and Workforce Development does not adopt the following federal occupational safety and health standards:
 - (a) 29 CFR 1926.1 Purpose and scope.
 - (b) 29 CFR 1926.2 Variances from safety and health standards.
 - (c) 29 CFR 1926.3 Inspections - right of entry.
 - (d) 29 CFR 1926.4 Rules of practice for administrative adjudications for enforcement of safety and health standards.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Repeal and new rule filed August 13, 1999; effective December 29, 1999. Amendment filed November 30, 2000; effective March 30, 2001. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002.

0800-01-06-.04 REPEALED.

Authority: T.C.A. § 50-3-201. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Repealed and new rule filed August 13, 1999; effective December 29, 1999. Repeal filed January 11, 2002; effective May 31, 2002.

**RULES
OF
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH**

**CHAPTER 0800-01-07
OCCUPATIONAL SAFETY AND HEALTH
STANDARDS FOR AGRICULTURE**

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0800-01-07-.01	Adoption and Citation of Federal Standards	0800-01-07-.02	Exceptions to Adoption of Federal Standards in 29 CFR Part 1928
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0800-01-07-.01 ADOPTION AND CITATION OF FEDERAL STANDARDS.

- (1) The federal occupational safety and health standards adopted by the Commissioner of Labor and Workforce Development in this chapter shall be cited using the designation in Title 29, Code of Federal Regulations, Part 1928, i.e., 29 CFR 1928 .51(b)(2)(ii), etc. Where adoption to the current Title 29, Code of Federal Regulations, Part 1928, is an exception, the citation shall be to 29 CFR 1928 as published in the Federal Register or to the appropriate rule in this chapter. See Rule 0800-01-07-.02 for exceptions.
- (2) The Commissioner of Labor and Workforce Development adopts the federal occupational safety and health standards codified in Title 29, Code of Federal Regulations, Part 1928, as of ~~January 1, 2019~~ November 1, 2019 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201. **Administrative History:** Original rule filed March 31, 1983; effective June 15, 1983. Repeal and new rule filed August 13, 1999; effective December 29, 1999. Amendment filed November 30, 2000; effective March 30, 2001. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed September 13, 2002; effective January 28, 2003. Amendment filed November 25, 2002; effective March 28, 2003. Amendment filed May 14, 2003; effective September 26, 2003. Amendment filed November 13, 2003; effective March 29, 2004. Amendment filed April 21, 2004; August 27, 2004. Amendment filed September 7, 2004; effective January 28, 2005. Amendment filed February 16, 2005; effective June 28, 2005. Amendment filed September 12, 2005; effective January 27, 2006. Amendment filed April 26, 2006; effective August 28, 2006. Amendment filed April 5, 2007; effective August 28, 2007. Amendment filed October 17, 2007; effective February 28, 2008. Amendment filed February 21, 2008; effective June 27, 2008. Amendment filed September 22, 2008; effective January 28, 2009. Amendment filed March 9, 2009; effective July 29, 2009. Amendment filed August 19, 2009; effective January 29, 2010. Amendment filed February 12, 2010; effective July 29, 2010. Amendment filed October 1, 2010; effective March, 31, 2011. Amendment filed September 23, 2011; effective February 28, 2012. Amendment filed April 25, 2012; effective September 28, 2012. Amendment filed August 9, 2012; effective January 29, 2013. Amendment filed April 3, 2013; effective September 28, 2013. Amendment filed October 10, 2013; effective March 31, 2014. Amendment filed April 2, 2014; effective September 28, 2014. Amendment filed September 19, 2014; effective December 18, 2014. Amendment filed May 1, 2015; effective July 30, 2015. Amendment filed September 1, 2015; effective November 30, 2015. Amendment filed April 14, 2016; effective July 13, 2016. Amendments filed October 31, 2016; effective January 29, 2017. Amendment filed April 24, 2017; effective July 23, 2017. Amendment filed November 6, 2017; effective February 4, 2018. Amendments filed June 8, 2018; effective September 6, 2018. Amendments filed October 8, 2018; effective January 6, 2019.

0800-01-07-.02 EXCEPTIONS TO ADOPTION OF FEDERAL STANDARDS IN 29 CFR PART 1928.

- (1) As of ~~January 1, 2019~~ November 1, 2019, there are no exceptions.

(Rule 0800-01-07-.02, continued)

Authority: T.C.A. §§ 4-3-1411 and 50-3-201. **Administrative History:** Original rule filed July 29, 1983; effective October 14, 1983. Repeal and new rule filed August 13, 1999; effective December 29, 1999. Amendment filed March 27, 2001; effective July 30, 2001. Repeal and new rule filed January 11, 2002; effective May 31, 2002. Amendment filed September 13, 2002; effective January 28, 2003. Amendment filed November 25, 2002; effective March 28, 2003. Amendment filed May 14, 2003; effective September 26, 2003. Amendment filed November 13, 2003; effective March 29, 2004. Amendment filed April 21, 2004; August 27, 2004. Amendment filed September 7, 2004; effective January 28, 2005. Amendment filed February 16, 2005; effective June 28, 2005. Amendment filed September 12, 2005; effective January 27, 2006. Amendment filed April 26, 2006; effective August 28, 2006. Amendment filed November 16, 2006; effective date March 30, 2007. Amendment filed April 5, 2007; effective August 28, 2007. Amendment filed October 17, 2007; effective February 28, 2008. Amendment filed February 21, 2008; effective June 27, 2008. Amendment filed September 22, 2008; effective January 28, 2009. Amendment filed March 9, 2009; effective July 29, 2009. Amendment filed August 19, 2009; effective January 29, 2010. Amendment filed February 12, 2010; effective July 29, 2010. Amendment filed October 1, 2010; effective March 31, 2011. Amendment filed April 4, 2011; effective September 28, 2011. Amendment filed September 23, 2011; effective February 28, 2012. Amendment filed April 25, 2012; effective September 28, 2012. Amendment filed August 9, 2012; effective January 29, 2013. Amendment filed April 3, 2013; effective September 28, 2013. Amendment filed October 10, 2013; effective March 31, 2014. Amendment filed April 2, 2014; effective September 28, 2014. Amendment filed September 19, 2014; effective December 18, 2014. Amendments filed May 1, 2015; effective July 30, 2015. Amendment filed September 1, 2015; effective November 30, 2015. Amendment filed April 14, 2016; effective July 13, 2016. Amendments filed October 31, 2016; effective January 29, 2017. Amendment filed April 24, 2017; effective July 23, 2017. Amendment filed November 6, 2017; effective February 4, 2018. Amendments filed June 8, 2018; effective September 6, 2018. Amendments filed October 8, 2018; effective January 6, 2019.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

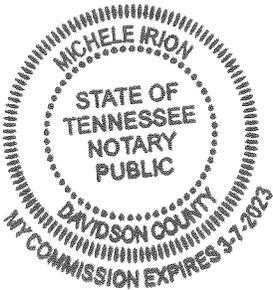
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 11/05/2019 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11-05-2019

Signature: *Jeff McCord*

Name of Officer: Jeff McCord

Title of Officer: Commissioner of Labor and Workforce Development



Subscribed and sworn to before me on: 11-5-19

Notary Public Signature: *Michele Irion*

My commission expires on: March 7, 2023

Agency/Board/Commission: Department of Labor and Workforce Development

Rule Chapter Number(s): 0800-01-01; 0800-01-03; 0800-01-06; 0800-01-07.

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

12/2/2019
Date

Department of State Use Only

Filed with the Department of State on: 12/4/19

Effective on: 3/3/20

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS
SS-7038 (October 2018)

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Parole

DIVISION: Legal

SUBJECT: Conduct of Parole Proceedings

STATUTORY AUTHORITY: Public Chapter 384 of the 108th General Assembly; Public Chapter 488 of the 111th General Assembly

EFFECTIVE DATES: March 22, 2020 through June 30, 2020

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Pursuant to Public Chapter 384 of the 108th General Assembly, certain eligible petitioners may petition for an expunction of their criminal records upon receiving a positive vote from the Board of Parole and a pardon by the Governor. This update to the Board of Parole Rules is being done so the Board may consider or reconsider the cases of those offenders who did not receive a positive vote from the Board but did not receive a pardon from the Governor.

Pursuant to Public Chapter 488 of the 111th General Assembly, offenders who are serving only Class D or E nonviolent felony sentences now have a presumption for parole release upon reaching their release eligibility date, unless good cause is shown as to why they should not be released. This update to the Board of Parole rules is being done to comply with this change in law.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

To the best of this Agency's knowledge and belief, none of these proposed rule changes will affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

To the best of this Agency's knowledge and belief, none of these proposed rule changes will affect local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Pursuant to Public Chapter 384 of the 108th General Assembly, certain eligible petitioners may petition for an expunction of their criminal records upon receiving a positive vote from the Board of Parole and a pardon by the Governor. This update to the Board of Parole Rules is being done so the Board may consider or reconsider the cases of those offenders who did not receive a positive vote from the Board but did receive a pardon from the Governor.

Pursuant to Public Chapter 488 of the 111th General Assembly, offenders who are serving only Class D or E nonviolent felony sentences now have a presumption for parole release upon reaching their release eligibility date, unless good cause is shown as to why they should not be released. This update to the Board of Parole Rules is being done to comply with this change in law.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 384 of the 108th General Assembly; Public Chapter 488 of the 11th General Assembly.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Tennessee Board of Parole, the Tennessee Department of Correction, adult offenders in the custody of the Tennessee Department of Correction eligible for parole consideration who are serving only nonviolent D and E felony sentences, adult offenders seeking clemency consideration or who have been granted clemency consideration, and members of the public. The Board of Parole has received no indication of the position of any of these entities with regard to these rule changes.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

There are no known opinions or rulings directly relevant.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There is no estimated impact on state and local government revenues or expenditures resulting from promulgation of this rule. The rule being promulgated is reflective of current policy and practices of the Board.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jim Purviance: Executive Director of the Tennessee Board of Parole, Rob Clark: General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jim Purviance: Executive Director of the Tennessee Board of Parole, Rob Clark: General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Jim Purviance, Executive Director: 404 James Robertson Parkway, Suite 1300, Nashville, Tennessee 37219
615-741-9941, jim.purviance@tn.gov
Rob Clark, General Counsel: 404 James Robertson Parkway, Suite 1300, Nashville, Tennessee 37219
615-253-1211, rob.clark@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: 12-17-19
Rule ID(s): 9286
File Date: 12/23/19
Effective Date: 3/22/20

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Board of Parole
Division: Legal
Contact Person: Rob Clark, Jim Purviance
Address: 404 James Robertson Parkway, Suite 1300
Zip: 37243
Phone: 615-253-1211
Email: rob.clark@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1100-01-01	Conduct of Parole Proceedings
Rule Number	Rule Title
1100-01-01-.08	The Parole Hearing Process

Chapter Number	Chapter Title
1100-01-01	Conduct of Parole Proceedings
Rule Number	Rule Title
1100-01-01-.16	Duties and Procedures of the Board in Executive Clemency

Proposed Rules
of the
Tennessee Board of Parole

Chapter 1100-01-01
Conduct of Parole Proceedings

The Administrative History following each rule gives the date on which the rule was filed and its effective date. The Administrative History also shows the date of any amendments or repeals:

Original chapter 1100-01-01 filed December 6, 1979; effective January 20, 1980.

Amendments to rules 1100-01-01-.02 through 1100-01-01-.07, 1100-01-01-.09, 1100-01-01-.11 through 1100-01-01-.13, and 1100-01-01-.15 filed March 11, 1985; effective April 10, 1985.

Amendments to rules 1100-01-01-.06, 1100-01-01-.07, 1100-01-01-.10, 1100-01-01-.11, and 1100-01-01-.13, filed April 18, 1986; effective July 14, 1986.

Repeal of and new chapter 1100-01-01 filed August 31, 1990; effective November 28, 1990.

Repeal of and new chapter 1100-01-01 filed May 5, 2009; effective September 28, 2009.

Repeal and new rules filed December 14, 2018; effective March 14, 2019.

Amendments to rules 1100-01-01.08 and 1100-01-01.16 filed _____; effective _____.

Presented herein are proposed rules of the Tennessee Board of Parole submitted pursuant to T.C.A. Chapter 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Board of Parole 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 rule is published. Such petition to be effective must be filed with the Board of Parole, in Room 1300 of the James Robertson Parkway Towers located at 404 James Robertson Parkway, Nashville, TN 37243 and in the Department of State, Eighth 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 rule, or submitted by a municipality which will be affected by the rule, or an association of twenty five (25) or more members, or any standing committee of the General Assembly.

For a copy of this proposed rule, contact: Rob Clark, General Counsel, Board of Parole, Suite 1300, James Robertson Parkway Towers, 404 James Robertson Parkway, Nashville, TN 37243, telephone 615.741.1150.

Chapter 1100-01-01 is repealed in its entirety and substituting in its place the following new rules; The text of the proposed rules are as follows:

New Rules
Table of Contents

1100-01-01-.01	Short Title	1100-01-01-.10	Psychological Evaluations
1100-01-01-.02	Statements of Intent	1100-01-01-.11	Detainers
1100-01-01-.03	Definitions	1100-01-01-.12	Rescission of Parole
1100-01-01-.04	Administration of the Board of Parole	1100-01-01-.13	Discharge of Parole
1100-01-01-.05	General Board Policy	1100-01-01-.14	Revocation of Parole
1100-01-01-.06	Parole Hearings	1100-01-01-.15	Confidentiality of Parole and Clemency Records; Confidentiality of Employee Personnel Records
1100-01-01-.07	Board Criteria for Granting or Denying Parole	1100-01-01-.16	Duties and Procedures of Board in Executive Clemency
1100-01-01-.08	The Parole Hearing Process		
1100-01-01-.09	Release on Parole Date		

1100-01-01-.01 Short Title.

- (1) These rules shall be known and may be cited as the "Rules and Regulations of the Tennessee Board of Parole."

Authority: T.C.A. § 40-28-104. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.02 Statements of Intent.

- (1) It was the intent of the General Assembly in creating the Tennessee Board of Parole that it be autonomous and in all respects functionally and administratively separate from any other state agency.
- (2) Responsive to requirements of Tennessee law, the Board recognizes that parole is a privilege and not a right, and that no inmate may be released on parole merely as a reward for good conduct or efficient performance of duties assigned in prison.
- (3) Although eligibility for parole is set by statute, whether an inmate is actually released on parole is discretionary with the Board.
- (4) To avoid even the appearance of impropriety, all decisions of the Board regarding policy, procedures, and rules shall be determined by a majority vote of the members of the Board. Votes taken shall be public.

Authority: T.C.A. §§40-28-101, 40-28-103 through 40-28-105, 40-28-115, 40-28-116, 40-28-117, 40-28-118, 40-35-501, 40-35-503. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.03 Definitions.

As used in these rules, unless the context otherwise requires:

- (1) "Board" means the Tennessee Board of Parole or a member thereof.

- (2) "Chair" means the Board member appointed by the Governor for a two (2) year term to direct the operations of the Board and to fulfill the functions established by law for such position.
- (3) "Executive Director" means the person appointed by the Board to serve as chief administrative officer of the agency.
- (4) "Director" means the Director of Probation and Parole employed by the Tennessee Department of Correction (TDOC) to perform the duties established by law for such position.
- (5) "District Director" means a TDOC employee responsible for management of one of several districts within the Department.
- (6) "Hearing Officer" means an employee appointed by the Chair to conduct parole hearings.
- (7) "Probation and Parole Officer" means a TDOC employee who supervises and investigates the conduct, behavior, and progress of offenders assigned to such person.
- (8) "Declaration of Delinquency" means a declaration made by the Director of Probation and Parole or designee which prevents an offender's sentence from continuing to expire when such offender is alleged to be in violation of the conditions of his or her parole.
- (9) "Detainer" means a warrant or hold placed against an inmate by another jurisdiction (called the "detaining authority") notifying the holding facility of the intention to take custody of the individual when he or she is released.
- (10) "Executive Clemency" means broadly, an act of leniency or an instance of mercy, which may be exercised by the Governor in all criminal cases after conviction, except in cases of impeachment. Included within the Governor's clemency powers are:
 - (a) "Commutation" means a discretionary act of the Governor, which reduces a prisoner's sentence from a greater to a lesser degree with the extent of such reduction being totally within the discretion of the Governor.
 - (b) "Conditional Pardon" means a pardon granted upon such conditions and with such restrictions and limitations as the Governor deems proper.
 - (c) "Exoneration" means the discretionary act of the Governor of abolishing a conviction and restoring all rights of a person based upon innocence in the case at issue under T.C.A. §40-27-109.
 - (d) "Pardon" means a discretionary act of the Governor which forgives the defendant or extinguishes his crime thereby granting such defendant full relief from all or any portion of his or her sentence remaining at the time of pardon.
 - (e) "Reprieve" or "Respite" means a discretionary act of the Governor which withholds a sentence for an interval of time or a sentence of death for a stated specific period of time, thus having the effect of suspending the execution of the sentence for the duration of the reprieve or respite.
- (11) "Inmate" means a felony offender who is in the custody of the Tennessee Department of Correction, a jail or workhouse, or is serving a Tennessee sentence in another jurisdiction.
- (12) "Mandatory Parole" means a parole, which the Board is required to grant to certain inmates who have never been paroled or granted parole of any type prior to the expiration of their sentence. All sex offenders must meet the requirements of T.C.A. §40-28-116 before being released on mandatory parole.
- (13) "Offender" means an inmate who has been placed on parole.
- (14) "Parole" means the release of an inmate to the community by the Board prior to the expiration of his or her term, subject to conditions imposed by the Board and subject to

TDOC supervision; or where a court or other authority has issued a warrant against the offender, and the Board, in its discretion, releases him or her to answer the warrant of such court or authority.

- (15) "Parole Hearing" means the process by which a decision is made to grant, deny, revoke, or rescind parole. Such hearing may or may not be in person. This determination is made subject to the classification of offense for which the inmate stands convicted.
- (16) "Pre-Parole Rescission" means the procedure by which the Board may terminate an inmate's grant of parole, before the inmate is actually released on parole, due to conduct, violations or omissions committed by such inmate prior to his or her release, or pertinent information that was not available at the time of the hearing.
- (17) "Parole Revocation" means the formal procedure by which the Board may terminate or revoke an offender's release on parole for conduct or omissions which violate the conditions of such offender's parole after his or her release.
- (18) "Post-Parole Rescission Hearing" means the procedure by which the Board may terminate an offender's grant of parole, after such offender is actually released on parole, due to conduct, violations or omissions committed by such offender, significant information fraudulently given or withheld by the offender or on behalf of the offender, or other information the Board was unaware of at the time of the parole grant.
- (19) "Preliminary Hearing" means the initial hearing conducted by a Hearings Officer, to determine whether probable cause exists to believe an offender has violated the conditions of his or her parole in an important respect.

Authority: T.C.A. §§40-27-101, 40-27-102, 40-27-104, 40-27-109, 40-28-102 through 40-28-105, 40-28-117, 40-28-121 and 40-28-122. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.04 Administration of the Board of Parole.

- (1) Board Structure.
 - (a) Composition of the Board shall be as provided by law. The appointment of members of the Board, the selection of its Chair, and the quorum requirements shall be those specified by law. (T.C.A. Title 40, Chapter 28).
 - (b) These regulations are promulgated under the authority of T.C.A. §40-28-101 et seq. and in accordance with the Uniform Administrative Procedures Act. (T.C.A. Title 4, Chapter 5).
 - (c) The Board shall keep or cause to be kept appropriate records of all of its official actions. Such records shall be made accessible to the public and interested parties in accordance with law and these rules and regulations.
- (2) Administrative Structure.
 - (a) The administrative structure of the Tennessee Board of Parole is as follows:
 1. The Executive Director of the Board is the chief administrative officer of the Board, who shall be appointed by the Board.
 2. There shall be other divisions of the Board as established by the Executive Director and the Board. These divisions shall be represented on the organizational chart maintained and updated by the Executive Director.

Authority: T.C.A. §§40-28-101, 40-28-103 through 40-28-107 and 40-28-119. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990.

Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.05 General Board Policy.

- (1) Board Administrative Meetings.
 - (a) Administrative meetings of the Board are open to the public and to the news media.
 - (b) Although administrative meetings and hearings are open to the public, the Board reserves the right to make such internal adjustments, rules, and regulations as are necessary to insure that the proceedings remain orderly at all times.
 - (c) Notices of the Board's administrative meetings will be provided in accordance with the Open Meetings Act.
- (2) Information concerning the Board.
 - (a) The Board shall maintain and will disseminate written information concerning its organization, functions, policies, procedures, rules, regulations, parole criteria, and/or supervision guidelines to any party requesting such information.
- (3) Public Records Requests
 - (a) Personnel of the Tennessee Board of Parole shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of these Rules shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Tennessee Board of Parole shall be protected as provided by current law. Information generated or held by the Board of Parole that is deemed confidential pursuant to Statute and/or Board of Parole Rules and Policies shall not be released to the public.
 - (b) Public record requests shall be made to the Public Records Request Coordinator ("PRRC") in order to ensure public record requests are routed to the Records Custodian and fulfilled in a timely manner.
 - (c) Requests for inspection only are not required to be made in writing. Requests for copies shall be made in writing via email or mail.
 - (d) Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license or alternate acceptable form of identification is required as a condition to inspect or receive copies of public records, unless the requestor is a former offender requesting his/her official record or a victim of a crime requesting the record of the offender who committed the crime against him or her.
 - (e) The PRRC shall cause a record to be kept of all public record requests, and the date the request was received by the agency. The PRRC shall acknowledge receipt of the request within seven (7) business days and determine the appropriate action(s) to take.
 - (f) The PRRC shall forward appropriate requests for public records to the records custodian(s) for the requested records.
 1. The Records Custodian shall make the requested public records available to the PRRC in accordance with T.C.A. § 10-7-503 and agency policy as practicable. If additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records, or for other similar reasons, the records custodian shall promptly communicate this to the PRRC who shall notify the records requestor within seven (7) business days of receipt of the request.

2. If a record contains confidential information or information that is not open to public inspection, the Records Custodian shall prepare a redacted copy prior to providing the record to the PRRC. If questions arise concerning redaction, the records custodian shall coordinate with the General Counsel and other appropriate parties regarding review and redaction of records.

(g) Fees and charges for copies of public records shall be charged in accordance with Tennessee Board of Parole policies. Cost for copies shall be \$.15 per page. Cost for a CD of a parole hearing shall be \$10.00. No charges will be assessed for copies and duplicates unless the total fee for the request exceeds \$5.00. Costs for labor shall be assessed where time to prepare records exceeds one (1) hour.

Authority: T.C.A. §§ 10-7-101 et. seq., 10-7-503, 40-28-104, 40-28-105, 40-28-119, and 40-28-502. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.06 Parole Hearings.

- (1) The Board will conduct hearings concerning matters of parole release and parole violations. The times, locations, and dockets of such hearings will be announced to the appropriate institutional and parole staff, the inmates or offenders, Judges, Sheriffs, and District Attorney Generals of the county in which the person was convicted, and any other interested parties who have requested to be notified.
- (2) At least thirty (30) days prior to a scheduled parole hearing and three (3) days prior to a parole revocation hearing, the Board shall send notice of the date and place of the hearing to the following individuals:
 - (a) The trial Judge for the Court in which the conviction occurred, or the trial Judge's successor;
 - (b) The District Attorney General in the county in which the crime was prosecuted;
 - (c) The Sheriff of the county in which the crime was committed; and
 - (d) The victim or the victim's representative, who has requested notification of the date and place of the scheduled hearing and/or notice of the Board's final decision. However, at any time, the victim or victim's representative may withdraw the request for notice by sending the Board a written statement that the request for notice is withdrawn.
- (3) A victim of a crime or a victim's representative may submit a victim impact statement.
- (4) No later than thirty (30) days after a parole hearing decision has been finalized, the Board shall send notice of its decision to those required to receive notice under subsection (2), together with notice that any victim whom the Board failed to notify as required in subsection (2) has the opportunity to have a written impact statement considered by the Board.
- (5) Subject to applicable provisions of law, it is the sole duty of the Board to determine which inmates serving a sentence in state prisons, county workhouses, and/or jails may be released on parole, when they may be released, and under what conditions.
- (6) In granting parole, the Board may impose any conditions and limitations that the Board deems necessary, including consent by the offender to submit to search by TDOC staff or law enforcement.

Authority: T.C.A. §§40-28-104 through 40-28-107, 40-28-115, 40-28-116, 40-28-118, 40-28-119, 40-35-501, 40-28-503, and 40-28-505. Administrative History: Original rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.07 Board Criteria for Granting or Denying Parole.

- (1) Before granting or denying parole, the Board may apply the following factors to each eligible inmate to assist in determining whether such inmate will live and remain at liberty without violating the law or the conditions of his or her parole:
 - (a) The nature of the crime and its severity;
 - (b) The inmate's previous criminal record, if any;
 - (c) The inmate's institutional record;
 - (d) The views of the appropriate trial Judge and the District Attorney General, who prosecuted the case;
 - (e) The inmate's circumstances if returned to the community;
 - (f) Any mitigating or aggravating circumstances surrounding the offense;
 - (g) The views of the community, victims of the crime or their family, institutional staff, probation and parole officers, or other interested parties;
 - (h) The inmate's training, including vocational and educational achievements;
 - (i) The inmate's employment history, his or her occupational skills, including any military experience, and the stability of his or her past employment;
 - (j) The inmate's past use of narcotics, or past habitual and excessive use of alcohol;
 - (k) The inmate's behavior and attitude during any previous experience on probation or parole and the recentness of such experience;
 - (l) An objective advisory parole predication guideline system to adequately assess the risk an inmate poses to society and his or her potential for parole success;
 - (m) Any other factors required by law to be considered or the Board determines to be relevant.
- (2) In applying the above factors to a particular inmate, the Board may consider the following sources of information:
 - (a) Reports prepared by institutional staff relative to the inmate's social history and institutional record, including any recommendations the institutional staff may wish to make;
 - (b) All relevant Department of Correction or other prison, jail, or workhouse reports;
 - (c) Observations concerning the suitability of releasing the inmate on parole from court officials, law enforcement officials, and other interested community members;
 - (d) Reports or recommendations resulting from any physical, psychological, or psychiatric examination or evaluation of the inmate;
 - (e) Any relevant information submitted by the inmate, his or her attorney, representatives on his or her behalf, or other interested parties;
 - (f) The parole plan, which the inmate has submitted; and
 - (g) Any other relevant information concerning the inmate.
- (3) The Board shall consider written impact statements or other information submitted by the victim or the victim's family.

- (4) After applying the various factors for consideration to the individual inmate, the Board shall deny the inmate's release on parole if it determines that:
 - (a) There is a substantial indication that the inmate will not conform to the conditions of his or her parole;
 - (b) Release from custody at this time would depreciate the seriousness of the crime of which the person stands convicted or promote disrespect for the law;
 - (c) Release at this time would have a substantially adverse effect on institutional discipline; or
 - (d) The person's continued correctional treatment, medical care, or vocational or other training in the institution, will substantially enhance the person's capacity to lead a law-abiding life when given release at a later time.
- (5) The Board may revise or modify its parole criteria and factors for consideration, as it deems appropriate.

Authority: T.C.A. §§40-28-104, 40-28-105, 40-28-106, 40-28-114, 40-28-116, 40-28-118, 40-28-504, and 40-35-503. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Amendment filed April 18, 1986; effective July 14, 1986. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.08 The Parole Hearing Process.

- (1) Parole Eligibility.
 - (a) Although the decision to release an inmate on parole is discretionary with the Board, parole eligibility is, by law, based upon the completion of a statutorily specified portion of a sentence, less any applicable credits.
 - (b) The Department of Correction shall notify the Board of an inmate's parole eligibility date.
 - (c) The Board's staff shall then compile and distribute dockets or lists of the cases to be heard by the Board.
 - (d) Subject to later alteration, the Board's schedule of dates and locations of hearings shall be available to those requesting it prior to the hearing.
 - (e) Inmates classified as close custody at the time they would otherwise be eligible for parole, shall not be certified by the Department of Correction, as eligible for a parole grant hearing, other than an initial grant hearing if, at the time the Department of Correction would otherwise have certified the inmate as eligible, the inmate is classified as close custody.
 - (f) This de-certification of inmates classified as close custody shall continue for the duration of the classification and for a period of one (1) year thereafter.
 - (g) Inmates classified as maximum custody at the time they would otherwise be eligible for parole, shall not be certified by the Department of Correction as eligible for a parole grant hearing, other than an initial grant hearing if, at the time the Department of Correction would otherwise have certified the inmate as eligible, the inmate is classified as maximum custody.
 - (h) This de-certification of inmates classified as maximum custody shall continue for the duration of the classification and for a period of two (2) years thereafter.
 - (i) Pursuant to T.C.A. § 40-35-503, it is presumed that offenders currently serving only a Class D or Class E non-violent felony, as defined by T.C.A. § 40-36-102, are to be released on parole upon reaching their release eligibility date unless

good cause is found on the record for denying release. Good cause shall be based upon application of the Board Criteria for Granting or Denying Parole and the Parole Release Decision Making Guidelines to facts or circumstances contained in an offender's file.

- (2) The Parole Hearing Process.
- (a) The Board is empowered to employ Hearing Officers to review inmates for any matter concerning a parole. The Hearing Officer's recommendations are advisory only and the Board shall accept, modify, or reject any recommendation made by a Hearing Officer.
 - (b) If the Board determines that it does not have necessary reports or sufficient information, upon which to base an objective decision in a particular case, it may continue such hearing to a later date. The Board may also continue a hearing to await the disposition of untried indictments, disciplinary proceedings, or to investigate the status of an outstanding detainer. Such continued hearings will subsequently be processed as scheduled, unless new commitments or the loss of good and honor time credits, alters the inmate's parole eligibility dates.
 - (c) Any eligible inmate may request that his or her scheduled parole grant hearing be deferred until a later specific month or year by signing a waiver to that effect, witnessed by correction or probation and parole personnel. The Board or a designated Hearing Officer may accept or reject the waiver and agree to defer the case or proceed to conduct the hearing. An inmate is to sign a waiver asking that his or her parole hearing be continued until a later date.
- (3) Findings and Notice of Decision.
- (a) The Board shall notify the inmate, in written form, of its final decision and reasons for the decision. Upon receipt of notice of the decision, the inmate shall sign and date a copy of the decision notification.
 - (b) (As soon as practicable after the Board's action, it shall cause to be forwarded to the appropriate standing committee of the General Assembly, a written list of the names of all inmates released on parole.
- (4) Appellate Procedure.
- (a) An inmate whose parole has been revoked, rescinded, or denied may request an appellate review by the Board. Requests for an appellate review must be received by the Board within forty-five (45) days from the date the inmate signed the decision notification indicating that he or she has received notice of the decision.
 - (b) If the request for an appeal is not received within forty-five (45) days from the date the inmate signed the decision notification, it will be denied.
 - (c) The request will be screened by Board Members, or their designee, to decide if it will be forwarded to the Board Members for their review.
 - (d) Reviews by the Board will be conducted for the following reasons:
 - 1. If there is significant new evidence that was not available at the time of the hearing;
 - 2. If there are allegations of misconduct by the hearing official that are substantiated by the record; or
 - 3. If there were significant procedural errors by the hearing official.
 - (e) All requests that will be sent to the Board Members for review must be based on one or more of the above stated reasons.

- (f) Requests based on the availability of new evidence or information must be accompanied by adequate documentation. Requests based on allegations of misconduct or significant procedural errors must clearly indicate the specific misconduct or procedural error(s).
 - (g) If a case is set for review, it will be conducted from the record of the first hearing and the appearance of the inmate will not be necessary. An appearance appeal hearing may be conducted if there were significant errors on the part of the hearing official or if misconduct on the part of the hearing official occurred in the initial hearing, and another hearing is necessary in order to correct the misconduct or significant errors from the first hearing.
 - (h) If the appeal reviewer believes that a review by the Board is warranted, the file shall be forwarded to Board Members not voting on the original case and not a party to the original decision. If there are not sufficient non-voting members to finalize the appeal, the appeal document shall be circulated randomly to Board Members until a final decision is reached.
 - (i) A decision to hold an appeal hearing requires three concurring votes of the Board Members. The Board may also vote to grant the appeal without holding a new hearing if the significant new information is sufficient. This decision also requires the concurrence of three (3) Board Members.
- (5) Parole Revocation/Rescission Review Pursuant to TCA § 40-28-122(g)
- (a) This type of hearing may be requested by an offender if that offender's parole has been revoked or rescinded by the Board of Parole based solely upon the filing of new criminal charges, and those charges are later:
 1. Dismissed or retired on the merits;
 2. A no true bill is returned by a grand jury;
 3. A verdict of not guilty is returned by a judge or jury; or
 4. The offender was arrested and released without being charged.
 - (b) A written or emailed notice of the foregoing must be submitted to the Executive Director of the Board by:
 1. The district attorney general (or designee thereof) from the judicial district in which the charges were brought;
 2. The judge in the court where the charges were brought;
 3. An Assistant Commissioner from the Department of Correction;
 4. The offender's attorney, provided that the notification is also signed by one of the first three officials listed herein; or
 5. The offender, provided that the notification is also signed by one of the first three officials listed herein.
 - (c) This written or emailed notice must include documentation of the alleged event and will be verified within ten (10) business days.
 - (d) If verified and the offender is eligible pursuant to statute, the Board or the Board's designee will conduct a hearing on the record to determine if the criteria have been met, as outlined in T.C.A. § 40-28-122(g), after which the Board may vote, based on the entirety of the record, to release and reinstate parole in accordance with applicable law. This hearing shall be scheduled for the next available docket, and shall be conducted no later than thirty-five (35) days from verification of eligibility.

- (e) If released and reinstated, the Board shall notify TDOC so that any sentence credits that may have been lost while the offender was incarcerated shall also be reinstated.

Authority: T.C.A. §§40-28-104 through 40-28-107, 40-28-115, 40-28-116, 40-28-119, 40-28-122, 40-35-501, and ~~40-35-503~~, 40-35-503, and 40-36-102. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Amendment filed April 18, 1986; effective July 14, 1986. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019. Amendment filed _____

1100-01-01-.09 Release on Parole Date.

(1) Grant of Parole.

- (a) A grant of parole shall not be deemed to be effective until a certificate of parole has been delivered to the inmate, by a Board designee, and the inmate has voluntarily signed the certificate.
- (b) If the Board Members have voted to establish a release date, release on that date shall be conditioned upon the continued good conduct of the inmate while remaining incarcerated prior to the effective date, and the approval of a satisfactory release plan.
- (c) If the Board has specified in their decision, that the inmate is to complete a program as a pre-parole condition prior to their effective date, the inmate must complete the program prior to that effective date. If the inmate has not completed the program prior to the effective date, a rescission hearing may be scheduled.
- (d) Upon receipt of significant new information, the Board may, on its own motion, reconsider any parole grant case prior to the release of the inmate and may reopen and advance or delay a parole date.

Authority: T.C.A. §§ 40-28-104 and 40-28-116. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.10 Psychological Evaluations.

- (1) The Board may order a psychological evaluation of any inmate, where they believe it appropriate.
- (2) Psychological evaluations for sex offenders must meet the standards cited in T.C.A. §40-28-116 or the standard that was in effect at the time such inmate committed the sex offense for which they are currently serving their sentence. Such certification is required before any inmate convicted of a sex crime is released on parole.
- (3) Such evaluations are not required prior to a sex offender's parole hearing but only prior to a sex offender's release on parole.
- (4) Prisoners who have been convicted of a sex offense shall not be released on mandatory parole unless they have been evaluated and meet the statutory requirement described in T.C.A. §40-28-116.

Authority: T.C.A. §§40-28-104, 40-28-106, 40-28-116, 40-28-117, and 40-35-503. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed April 18, 1986; effective July 14, 1986. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal

and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.11 Detainers.

- (1) A Detainer is a warrant or hold placed against an inmate by another jurisdiction (called the "detaining authority") notifying the holding facility of the intention to take custody of the individual when he or she is released.
- (2) The presence of a detainer shall not, in and of itself, constitute a valid reason for the denial of parole.
- (3) Parole to Detainers.
 - (a) As used in this rule, unless the context otherwise requires, 'parole to a detainer' means the release of the inmate to the physical custody of the authority who has lodged the detainer.
 - (b) Where the detainer is not lifted, the Board may grant parole to such detainer within their discretion.
 - (c) The Board will cooperate in establishing and maintaining arrangements for concurrent supervision with other jurisdictions, where such arrangements are feasible and where release on parole appears, to the Board, to be justified.
 - (d) If the Board has granted parole to "detainer only" and the jurisdiction placing the detainer lifts it or fails to take custody of the inmate, a rescission hearing will be scheduled.

Authority: T.C.A. §§40-28-104 and 40-28-401. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.12 Rescission of Parole.

- (1) Pre-parole Rescission.
 - (a) If an inmate has been granted parole and has subsequently been charged with institutional misconduct, escape, or has been served with a warrant or received a new felony sentence or had the certification of parole eligibility withdrawn by the Department of Correction or has other changes in circumstances sufficient to become a matter of record, the Board shall be promptly notified and advised of such new circumstances.
 - (b) No inmate about whom notification has been made pursuant to subparagraph (a) of this subsection shall be released on parole until such time as the institution has been properly informed that no change has been made in the Board's order to parole.
 - (c) Upon receiving notification as required by subparagraph (a) of this subsection, the Board may schedule a parole rescission hearing or notify the institution that the grant of parole remains.
- (2) The Pre-Parole Rescission Procedure.
 - (a) The rescission hearing may be scheduled, if possible, for the next docket of parole hearings at the institution where the inmate is being held.
 - (b) The inmate shall be given adequate notice of the reason(s) such rescission hearing is being conducted. Such notice shall be given at least three (3) days prior to the scheduled date of the rescission hearing. The reason(s) for the rescission hearing shall be stated in the notice, with the exception of information that is considered confidential by the Board.

- (c) A rescission hearing may be held in order to determine if the inmate's misconduct or other change in circumstances is sufficient to warrant rescission of such inmate's parole grant.
 - (d) The inmate may appear at his or her rescission hearing and may present documentary evidence and witnesses in his or her behalf at the rescission hearing.
 - (e) The inmate's presence is not necessary at the rescission hearing if:
 - 1. The institutional misconduct has been established by the institution's disciplinary committee by a finding that the inmate has violated the rules of his or her confinement; or
 - 2. If the misconduct has resulted in a conviction in a court of law.
 - (f) The Board may delay the parole grant for up to one hundred and twenty (120) days if, in its opinion, it has insufficient information before it to reach an informed and fair decision at the rescission hearing. Awaiting the disposition of institution discipline committees, new charges or indictments, or investigating new detainees shall also be sufficient grounds to continue a rescission hearing under this subparagraph.
 - (g) If the result of the process is that the inmate's grant of parole is rescinded, he or she shall be given written notice evidencing the reasons for the rescission of the parole grant.
 - (h) A grant of parole shall not be rescinded except upon the concurrence of two (2) Board Members.
- (3) Post-parole Grant Rescission Procedure.
- (a) If, after a parole has become effective and the inmate is released on parole, evidence comes to the attention of the Board that significant information was fraudulently given or withheld by the inmate, or on behalf of the inmate, or that the inmate violated the law while on any furlough or other release program prior to being released on parole and such information was not known by the Board, or that the parolee has been arrested, indicted or convicted for an offense that was committed prior to parole, or that the parolee has an unexpired prison term of which the Board was unaware at the time of the hearing, or that a calculation of the parolee's sentence structure would render him or her ineligible for parole, the Director may issue a warrant for the retaking of such parolee.
 - (b) A grant of parole shall not be rescinded except upon the concurrence of two (2) Board Members.
 - (c) Upon the execution of the warrant, the offender shall be notified of the reasons for the post parole grant rescission hearing. The provisions of Rule 1100-01-01-.14 with regard to notice and hearings procedures shall be followed.
 - (d) At such rescission hearing, the Board may declare that the grant of parole is void and the inmate shall thereupon resume his or her sentence in custody, or the Board may declare that grant of parole void, but decide to re-parole on both the old and new cases if eligibility has been certified by the Department of Correction, or the Board may decide to leave the subject on parole.
- (4) Appeal Procedure.

- (a) An inmate whose parole has been rescinded may request an appellate review by the Board. Such review shall be in accordance with the procedure outlined in rule 1100-01-01-.08 (4).

Authority: T.C.A. §§40-28-104 and 40-28-105. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Amendment filed April 18, 1986; effective July 14, 1986. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.13 Discharge of Parole.

- (1) When the Board is satisfied that a parolee has complied with the conditions of his or her parole in a satisfactory manner, the Board shall cause to be issued to such parolee a certificate of final discharge. Final discharge from parole will be granted only after a parolee has reached the expiration date of his or her sentence(s). This is in no way to be construed as permitting a discharge from parole for parolees with a life sentence.

Authority: T.C.A. §§ 40-28-104. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.14 Revocation of Parole.

- (1) Parole Revocation
 - (a) If a Probation/Parole Officer having charge of an offender, has reasonable cause to believe that the offender has violated one or more of the conditions of parole in an important respect, such officer shall present such evidence to the Director or designee.
 - (b) This report shall be in written form, and shall contain a listing of the violations alleged and the facts and circumstances surrounding each violation.
 - (c) Upon receipt of a Probation/Parole Officer's report alleging violation of parole, the Director or designee, may issue a warrant for the retaking of the offender and his or her return to a correctional institution in the State of Tennessee, if the Director or designee determines parole has been violated in an important respect.
 - (d) Any officer authorized to serve criminal process, or any peace officer to whom such warrant is delivered, shall execute the warrant by taking the offender into custody.
 - (e) In those cases where the offender is confined in another state pending new criminal charges, or is serving a sentence in another state, the warrant may be placed there as a detainer. If it becomes apparent that the Board cannot obtain physical custody of the offender detained in another state, the Director or designee shall withdraw the warrant and issue a letter of notification. The letter of notification shall consist of a letter sent to the custodian of the offender being held in another jurisdiction and shall inform such custodian that the named individual is an alleged parole violator in the State of Tennessee.
 - (f) Such notification shall request that the out-of-state custodian inform the Tennessee Director or designee of the release of the named offender at least ninety (90) days prior to such release from the out-of-state or foreign jurisdiction.
 - (g) Upon receipt of notification by the custodian that an offender will be released, the Director or designee shall reissue the warrant so that the offender may be returned to Tennessee by execution of such warrant unless parole has expired.

- (h) When an offender is returned to the custody of Tennessee authorities from his or her confinement by an out-of-state custodian, such offender shall be afforded prompt parole revocation proceedings.
 - (i) Nothing in this rule shall be construed to prevent the Director or designee from issuing a letter of notification to the custodian of the offender in the first instance in lieu of placing a warrant as a detainer.
- (2) Preliminary Hearing.
- (a) Upon execution of a warrant by the Director, the offender shall be given adequate notice of the preliminary hearing or revocation hearing. If a revocation hearing is held within fourteen (14) days after the service of the warrant, a preliminary hearing is not required.
 - (b) The notice shall state the time and place of the hearing and shall inform the offender that at the hearing he or she will be given the opportunity to present witnesses and documentary evidence in his or her behalf, shall be allowed to cross-examine any adverse witnesses in attendance, and that he or she has a limited right to request legal representation.
 - (c) Unless waived in writing or a revocation hearing is held within fourteen (14) days of service of the warrant, the offender shall be afforded a preliminary hearing.
 - (d) The preliminary hearing shall be conducted as scheduled unless the offender voluntarily waives such hearing in writing. For such a waiver to be effective, it must contain the following:
 - 1. A clear statement that the offender is entitled to a preliminary parole revocation hearing; and
 - 2. A clear statement that the offender has the right to present documentary evidence, as well as individual testimony which may give relevant information to the Hearing Officer, and a limited right to request legal representation.
 - (e) If the offender expresses his or her desire to waive such hearing, a Probation/Parole Officer shall explain the contents of the waiver to the offender and shall not accept such waiver unless he or she is reasonably certain that the offender fully understands the contents and consequences of such a waiver and that the offender knowingly and voluntarily still desires to waive his or her preliminary hearing.
 - (f) A request to appoint an attorney for an offender may be forwarded to the General Counsel of the Board of Parole under two circumstances:
 - 1. If a preliminary hearing is held and the Hearing Officer is of the belief that the inmate is incapable of speaking effectively for himself or herself, the Hearing Officer shall continue the hearing and notify the General Counsel for the Board that an attorney appointment is recommended. Upon receiving this recommendation, an attorney may or may not be appointed.
 - 2. The offender may request that he or she be appointed counsel to represent him or her. If the offender has made such a request, the Hearing Officer shall determine whether the request shall be forwarded to the General Counsel under the criteria the General Counsel considers in (g) 1-3.
 - (g) The General Counsel may appoint attorneys in accordance with applicable case law or in the following situations:

1. The offender has made a timely and colorable claim that he has not committed the alleged violation of the conditions upon which he is at liberty; or
 2. Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 3. The offender is incapable of speaking effectively for himself or herself.
- (h) In every case in which a request for counsel at a preliminary hearing is denied, the grounds for such refusal shall be stated succinctly, in writing, by the Hearing Officer.
- (i) In every case in which a request for counsel at a preliminary hearing is not made, the Hearing Officer or a Parole Officer shall have the offender sign a statement that he or she has been fully informed of his or her ability to request that he or she be appointed counsel to represent him or her and that he or she has decided not to seek appointed representation.
- (j) Nothing in this rule shall be construed to prevent the waiver of the right to a preliminary hearing and the decision not to request counsel at the preliminary hearing from appearing on the same document.
- (k) At the preliminary hearing, the offender shall have the right to:
1. Appear at the hearing and speak in his or her own behalf;
 2. Produce documents, letters, and individuals relevant to the violation(s) alleged;
 3. Confront and cross-examine persons who have given adverse information upon which his or her parole revocation is to be based, unless the Hearing Officer finds good cause exists to disallow such cross-examination and confrontation; and
 4. Be represented by retained counsel or an attorney appointed under the conditions noted above.
- (l) The Hearing Officer shall conduct the hearing informally, including the presentation of the documents or evidence in support of parole violation and the offender's responses to such evidence. Based on the information presented at the hearing, such Officer shall determine whether probable cause exists to believe that the offender violated the conditions of his or her parole in an important respect.
- (m) If the Hearing Officer determines it is necessary or the offender requests that any witnesses be subpoenaed, such Officer shall employ the following procedure:
1. If the witnesses are requested by the offender, such offender or his or her attorney shall submit a written statement to the Probation and Parole Officer, as well in advance of the scheduled hearing as possible, of the names of the persons requested as well as a brief statement of why their testimony is relevant. The statement requesting witnesses shall be forwarded to the Board of Parole which shall review the request(s) and issue subpoenas for necessary witnesses.
 2. If the witnesses are requested by the state, the person representing the state shall comply with the same procedure set out in subpart (1) above, but the request shall be sent directly to the Board of Parole.

3. Failure to comply with this procedure by the parties shall be sufficient grounds for denial of a subpoena request. If the offender is not represented by an attorney the subpoenas may be served by a Probation/Parole Officer or sent by certified mail.
- (n) At the preliminary hearing, the Hearing Officer shall select one of the following alternative decisions:
1. No probable cause found, and the offender shall be returned to supervision and the violation warrant withdrawn; or
 2. Probable cause found and the offender shall remain in custody under the violation warrant to await a final parole revocation hearing before the Board.
- (3) Declaration of Delinquency.
- (a) A declaration of delinquency may be issued by the Director of Probation and Parole in revocation proceedings to suspend such credit toward the service of the offender's sentence. Such declaration shall be made by the Director or designee in any case when a parole violation warrant is issued, and the parolee is not in custody.
 - (b) Except when an offender is declared to be in a delinquent status, the time he or she is on parole is credited toward the service of his or her sentence unless it is taken by the Board after a revocation of parole.
 - (c) If delinquency is declared, the offender stops earning credit for the service of his or her sentence from the date of declaration, until the parole violation warrant is served and the offender is housed in a correctional facility in Tennessee. Offenders taken into custody in another state will remain in delinquent status from the declaration of delinquency until they are returned to a Tennessee correctional facility or until delinquency is removed by the Board.
 - (d) During the revocation process, the Board may consider an alleged violation and determine either that parole should not be revoked or that mitigating or compelling circumstances exist for the violation. The Board may then "take" or "grant" the delinquent time. Taking delinquent time requires that the offender lose credit toward service of sentence. The Board may take all of the delinquent time or some lesser amount of time, which is set by the Board. Granting the delinquent time restores all of the offender's credit toward service of sentence as though delinquency had never been declared.
- (4) Notice of Final Parole Revocation Hearing.
- (a) Prior to the revocation hearing, the offender shall be notified in writing of the following:
 1. The date, time, and location of the hearing;
 2. That the offender has the right to appear in person and present such evidence as he or she desires;
 3. That he or she has the right to confront and cross-examine any adverse witnesses, unless good cause can be shown for refusing confrontation and cross-examination, such as a significant potential for harm if identities are revealed; and
 4. That the offender has a limited right to request that counsel be appointed to represent him or her at the final revocation hearing.
- (5) Continuance of Final Revocation Hearing.

- (a) Following a finding of probable cause at the preliminary hearing, the Board shall schedule a final revocation hearing as promptly as possible to consider the alleged violation(s) of parole.
 - (b) On its own motion, the Board may continue the final revocation hearing in order to secure more or necessary evidence or witnesses at the hearing, or to secure counsel to represent the offender.
- (6) Final Revocation Hearing.
- (a) At the final revocation hearing, the offender shall have the right to appear and be heard in person and to present witnesses and documentary evidence.
 - (b) The offender shall have the right to confront and cross-examine adverse witnesses, unless the Board specifically finds good cause for not allowing such confrontation and cross-examination.
 - (c) A request to appoint an attorney to an offender may be forwarded to the General Counsel of the Board of Parole under two circumstances:
 1. If at a final revocation hearing, the Hearing Officer is of the belief that the inmate is incapable of speaking effectively for himself or herself, the Hearing Officer shall continue the hearing and notify the General Counsel for the Board, that an attorney appointment is recommended. Upon receiving this recommendation, an attorney may or may not be appointed.
 2. The offender may request that he or she be appointed counsel to represent him or her. If the offender has made such a request, the Hearing Officer shall determine whether the request shall be forwarded to the General Counsel under the criteria the General Counsel considers in (d) 1-3.
 - (d) The General Counsel may appoint attorneys in accordance with applicable case law or in the following situations:
 1. The offender has made a timely and colorable claim that he has not committed the alleged violation of the conditions upon which he is at liberty; or
 2. Even if the violation is a matter of public record or is uncontested, there are substantial reasons which justified or mitigated the violation and make revocation inappropriate and that the reasons are complex or otherwise difficult to develop or present; or
 3. The offender is incapable of speaking effectively for himself or herself.
 - (e) In every case in which a request for counsel at a final revocation hearing is refused, the grounds for such refusal shall be stated succinctly in the record, in writing.
 - (f) In every case in which a request for counsel at a final revocation hearing is not made, the Board shall have the offender sign a statement that he or she has been fully informed of his or her ability to request that he or she be appointed counsel to represent him or her and that he or she has decided not to seek appointed representation.
 - (g) At the final revocation hearing, the Board will initially determine whether the alleged violation of parole is supported by a preponderance of the evidence. In all cases, the burden shall be on the State to establish that a violation occurred.

- (h) If the Board determines that a parole violation occurred, or if the offender admits to a violation, the Board shall next consider whether such grant of parole should be revoked for the violation.
 - (i) In all cases, including those situations in which the offender has been convicted of a new offense, the Board shall consider any mitigating factors advanced by the offender, which suggest that the violation of parole does not warrant revocation.
 - (j) All parole revocation hearings shall be conducted in a manner as informal as is consistent with due process and the technical rules of evidence shall not apply to such hearings.
 - (k) All evidence upon which the finding of a parole violation may be based, shall be disclosed to the offender at the revocation hearing unless it has been declared confidential by the Board.
 - (l) Nothing in this subsection shall be construed to prevent the Board from disclosing documentary evidence by reading or summarizing the appropriate document for the offender.
 - (m) If the Board sustains the violation and decides to revoke parole, the offender shall be returned to confinement to serve the remaining portion of his or her sentence or such part as the Board directs. The time an inmate spent on parole shall not be considered as service of the sentence unless the Board determines to grant all or part of such "street time" to the inmate.
 - (n) The Board shall set a review date and record it on a Board Action Sheet.
 - (o) If the Board finds that the offender did not commit the alleged violation or, if he or she did, finds that mitigating factors dictate revocation is not appropriate, the offender shall be allowed to resume his or her parole status subject to the conditions approved by the Board.
- (7) Felony Committed While on Parole.
- (a) If a person is convicted in this state of a felony committed while on parole from a prison, workhouse, or jail in this state, he or she shall serve the remainder of his or her sentence under which parole was granted, or such part of that sentence as the Board may determine before he or she commences serving the sentence fixed for the crime committed while on parole.
 - (b) If a person on parole from a prison, workhouse, or jail in this state is convicted of a crime under the law of another state or county which, if committed in this state, would be a felony, the Director of Probation and Parole in this state, shall seek to return such offender to this state through the terms of the interstate compact. If such offender is returned, the Board shall require that he or she serve the portion remaining of his or her maximum term of sentence or such part of that term as the Board may determine.
 - (c) The Board, at its discretion, may recommend to the Commissioner of Correction, the removal of all or any part thereof, of the good and honor time and incentive time such inmate accrued on the sentence under which he or she was paroled. The final decision relative to whether any or all of such time credits will be removed shall be made by the Commissioner of Correction.

Authority: T.C.A. §§40-28-104, 40-28-105, 40-28-106, 40-28-118, 40-28-121 through 40-28-123 and 40-35-504. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Amendment filed April 18, 1986; effective July 14, 1986. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.15 Confidentiality of Records.

(1) Confidential Information.

(a) The following information may be contained in the Board's file and is considered confidential by the Board and will not be released unless listed as an exception under rule 1100-01-01-.15(3):

1. Psychological evaluations provided, however, that such may be released to mental health officials who are treating the offender if a release of information form signed by the offender is presented with the request.
2. Offense Report.
3. Medical Records.
4. Contents of probation and parole staff chronological records, contact notes.
5. Probation/Parole Officers' statements accompanying violation reports
6. Written clemency recommendations to the Governor.
7. Statements in opposition of an offender by victims, families of victims, victims' representatives, families of inmates, private citizens, and public officials who request confidentiality.
8. Victim impact statements.
9. Internal Affairs investigative reports.
10. Any reports or information generated by other agencies.
11. Other information, the release of which the Board specifically finds would be a serious safety risk to the public, staff, parolee or inmate.

(2) Information Available for Release.

(a) The following information may be released:

1. hearing and decision-making policy and procedures;
2. whether an inmate is being considered for parole or clemency;
3. whether parole or clemency has been granted or denied;
4. effective date for parole;
5. statements in support of a parole;
6. clemency applications and supporting documentation;
7. date, time, and location of hearings;
8. parole certificates and determinate release certificates;
9. reasons for the Board decisions listed on the Board Action Sheet;
10. residential and employment records of offenders;

(b) Requests for information from field supervision files shall be directed to the District Director or his or her designee. The District Director or his or her designee will review the records and release information available under rule 1100-01-01-.15(2)(a).

(3) Upon official request, law enforcement, child support officials, or other governmental entities shall be provided information as necessary to assist in their investigations, in their official capacity. Upon verification of the identity of the requesting official the following information may be released:

- (a) offender's aliases;
 - (b) offender's M.O. (modus operandi or mode of operation);
 - (c) offender's address;
 - (d) offender's place of employment;
 - (e) offender's photographs and fingerprints;
 - (f) offender's social security number;
 - (g) offender's telephone number;
 - (h) offense reports;
 - (i) whether a warrant has been issued and whether an offender has been arrested on a warrant;
 - (j) violation reports;
 - (k) information on assets of persons currently or previously on parole who owe court fines.
- (4) The Board shall not release employee personal information such as social security numbers, home addresses, or telephone numbers.

Authority: T.C.A. §§40-28-104, 40-28-106, 40-28-119, and 40-28-504. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28, 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019.

1100-01-01-.16 Duties and Procedures of Board in Executive Clemency Matters.

- (1) The Board shall, upon the request of the Governor, consider and make nonbinding recommendations concerning all requests for commutations or pardons. Such recommendations shall be made according to the following procedures:
- (a) Beginning Steps of Clemency Procedure.
 - 1. Upon receipt of a request from an offender or his or her attorney for executive clemency consideration, the Board shall respond by sending to the individual making the request an executive clemency application with a cover letter explaining the application procedure.
 - (i) If the Board receives a request for clemency on behalf of an individual by a third party who is not the individual's attorney, the Board shall respond and advise the third party that the person for whom clemency is requested must apply directly to the Board unless that person lacks the competency to apply in his or her own behalf.
 - (ii) Where a request for clemency is referred to the Board from the Governor's office, the Department of Correction, or any other agency, such request shall be handled in the same manner as if the request had been initially addressed to the Board.
 - (b) Pardon Requests.
 - 1. An application for a pardon must be accompanied by information and evidence sufficient to enable the Board to determine whether the applicant is entitled to consideration for a pardon under the Governor's guidelines. If no such information is included in the application or furnished to the Board, the applicant will be advised that the application cannot be processed further until such information is received.

2. The Board shall review the application and supporting information and determine whether the applicant should be scheduled for a hearing. The Board's files shall reflect the action of the Board in scheduling the case for a hearing. If the applicant is determined not to be eligible for consideration, he or she shall be advised of this and of the reasons he or she is not eligible for consideration.
- (c) Commutation Requests.
1. The Board shall review the application and any supporting information and determine whether the applicant falls within the Governor's guidelines and the Board's screening factors, and whether the applicant should be scheduled for a hearing. The Board's files shall reflect the action of the Board in scheduling the case for hearing.
 2. If the applicant does not fall within the Governor's criteria, the applicant shall be advised as to why he or she is not eligible for consideration and will not be scheduled for a hearing. He or she shall be advised of the date on which he or she will be eligible and may reapply for consideration, provided that none of the Board's screening factors are amended by the Governor to prevent such consideration.
- (d) General Procedure for Clemency Requests and Hearings.
1. All requests for executive clemency shall be responded to in a timely manner. After the application is received, the applicant and his or her attorney shall be advised as to whether the case is to be scheduled for a hearing and the date, time, and place of any hearing. All hearings shall be held promptly following the notice to the applicant and his or her attorney, unless it is continued at the Board's discretion, upon the request of the applicant or his or her attorney, or pending receipt by the Board of essential information. The notice shall advise the applicant that he or she is entitled to appear at the hearing and to present witnesses and other evidence on his or her behalf. Such notice shall also include a description of the type of evidence considered by the Board.
 2. At the same time that notice is sent to an applicant and his or her attorney, the appropriate Judge and District Attorney General shall be notified that the case has been set for hearing and given the date, time, and place. The notice to the Judge and District Attorney shall indicate that the Board solicits and welcomes their views and recommendations concerning clemency for the applicant.
 3. The Board's staff may compile any or all of the following information for the Board's consideration at the hearing:
 - (i) a reclassification or parole summary completed by the institutional staff, if the applicant is an inmate;
 - (ii) information about the facts and circumstances surrounding the offense and conviction. Such information shall be obtained through investigations conducted by a Probation/Parole Officer or other individual designated by the Board;
 - (iii) a psychiatric or psychological evaluation if the applicant is an individual convicted of a sexual offense or sex related crime;
 - (iv) information about medical, mental and/or family problems or needs obtained through investigation by a Probation/Parole Officer or other individual designated by the Board, if appropriate; and

- (v) the application, original request, supporting evidence, and any correspondence in the Board's file concerning the application.
4. If the applicant is requesting a pardon, the following additional information shall be obtained:
 - (i) information obtained for FBI and local records checks;
 - (ii) information regarding recent social history and reputation in the community; and
 - (iii) information verifying reasons for pardon request.
5. Although the Board's staff obtains the above information so that clemency hearings not be completely ex parte in nature, the burden remains on the applicant to establish that he or she is entitled to clemency.
6. At a clemency hearing the Board shall consider, but is not limited to, the following factors:
 - (i) the nature of the crime and its severity;
 - (ii) the applicant's institutional record;
 - (iii) the applicant's previous criminal record, if any;
 - (iv) the views of the appropriate trial Judge and the District Attorney General who prosecuted the case;
 - (v) the sentences, ages, and comparative degree of guilt of co-defendants or others involved in the applicant's offense;
 - (vi) the applicant's circumstances if returned to the community;
 - (vii) any mitigating circumstances surrounding the offense;
 - (viii) the views of the community, victims of the crime or their families, institutional staff, Probation/Parole Officers, or other interested parties; and
 - (ix) medical and psychiatric evaluations when applicable.
7. The Board will inform the applicant and his or her attorney, if present, of its recommendation at the end of the hearing or, in its discretion, will take the case under advisement. In either event, the Board shall advise the applicant that its recommendation to the Governor is non-binding and that the Governor will review any recommendation by the Board.
8. The Chair shall designate one member of the Board to write a report to the Governor concerning the case. The report shall include:
 - (i) a brief statement of the reasons for the recommendation;
 - (ii) the complete file;
 - (iii) the views of the various Board Members, if the recommendation is not unanimous; and
 - (iv) the specifics of the recommendation, whether it is a positive or negative one, and if a positive recommendation is made, any terms and conditions recommended by the Board.
9. If the Governor has granted a pardon to an applicant who did not previously receive a positive recommendation from the Board, the Board shall conduct an administrative vote at the next scheduled Board

Forma

Meeting, solely for the purpose of allowing the applicant to seek expungement pursuant to T.C.A. § 40-32-101. The Board shall consider the applicant's case along with the Governor's statements and clemency action. The Board will inform the applicant and his or her attorney prior to the Board meeting that the vote shall occur, and a decision letter shall be sent to the applicant and his or her attorney.

- (e) Emergency Medical Clemency Requests. In a small percentage of cases, it is necessary and appropriate that the Board consider requests by individuals recommended for clemency by the Department of Correction's medical staff. At times, these individuals may lack competency to apply on their own behalf and the request may be made by the medical staff. These requests are made in unusual or emergency medical situations and may require immediate action by the Board. In such cases, a complete medical report and a detailed statement of the emergency situation will accompany the Board's report to the Governor.
- (f) As soon as practicable after the Board's clemency recommendation, it shall forward or cause to be forwarded to the appropriate standing committees of the General Assembly, designated by the Speaker of the Senate and the Speaker of the House of Representatives, a written list of the names of all persons receiving both favorable and unfavorable recommendations.
- (g) The list required by subsection (f) shall also be furnished to the appropriate Attorney General in whose district any such person was convicted.
- (h) Supervision of Commutees.
 1. When the Governor of the State of Tennessee commutes an offender's sentence and makes community supervision a condition of such commutation, TDOC shall assign the commuttee a Probation/Parole Officer in the same manner as if the offender had been released on parole.
 2. If the Probation/Parole Officer supervising such commuttee has reasonable cause to believe such person has violated the conditions of his or her commutation, the Officer shall detail the circumstances of the alleged violation in the form of an affidavit and transmit such affidavit to the Director of Probation and Parole. In no event shall the Probation/Parole Officer arrest, detain, or cause the arrest or detention of a commuttee unless done on the basis of a warrant from the Governor.
 3. The Director shall review and shall immediately transmit, in appropriate cases, affidavits received pursuant to this subsection, to the office of the Governor.
 4. At the request of the Governor, the Board shall conduct a commutation revocation hearing to determine if a commuttee has violated the conditions of his or her commutation. The Board will conduct such hearings in the same manner and use the same procedures as parole revocation hearings are conducted pursuant to rule 1100-01-01-.14.
 5. At the conclusion of the hearing the Board shall transmit the record of such hearing, together with the Board's non-binding findings and recommendations concerning the alleged commutation violation, to the Governor.

Authority: T.C.A. §§40-27-101, 40-27-102, 40-27-104, 40-28-104, 40-28-106, 40-28-107, 40-28-114, and 40-28-126, and 40-32-101. Administrative History: Original rule filed December 6, 1979; effective January 20, 1980. Amendment filed March 11, 1985; effective April 10, 1985. Repeal and new rule filed August 31, 1990; effective November 28, 1990. Repeal and new rule filed May 5, 2009; effective September 28,

| 2009. Repeal and new rules filed December 14, 2018; effective March 14, 2019. Amendment filed

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Richard Montgomery	Aye				
Barrett Rich	Aye				
Gay Gregson	Aye				
Roberta Kustoff	Aye				
Zane Duncan	Aye				
Gary Faulcon	Aye				
Tim Gobble	Aye				

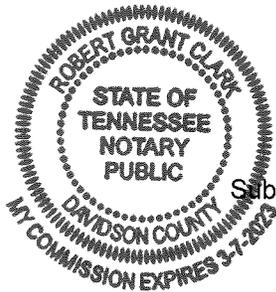
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board of Parole on 09/25/2019, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: November 1, 2019

Signature: _____

Name of Officer: Jim Purviance

Title of Officer: Executive Director



Subscribed and sworn to before me on: 11/1/2019

Notary Public Signature: _____

My commission expires on: 3/7/2023

Agency/Board/Commission: Tennessee Board of Parole

Rule Chapter Number(s): 1100-01-01

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

11/15/2019

Date

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Filed with the Department of State on: 12/23/19

Effective on: 3/22/20

DeHaven
Nancy Hargett
 Secretary of State