

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Insurance

SUBJECT: Minimum Reserve Standards for Individual and Group Health Insurance Contracts

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 56-1-418, 56-1-901 *et seq.*, and 56-2-301

EFFECTIVE DATES: April 11, 2017 through October 8, 2017

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This emergency rule updates the minimum reserving standards for group and individual accident and health insurance policies by updating the existing regulation, which contains outdated tables and information, to supplement such with a direct reference to the National Association of Insurance Commissioners (NAIC) guidelines prescribed in the Life and Health Valuation Manual for policies written on or after January 1, 2017, which are required to be followed pursuant to Tenn. Code Ann. § 56-1-901 *et seq.*, and further as a condition of the Department's accreditation with the NAIC.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not 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;

This rule updates the minimum reserving standards for group and individual accident and health insurance policies by updating the existing regulation, which contains outdated tables and information, to supplement such with a direct reference to the National Association of Insurance Commissioners ("NAIC") guidelines prescribed in the Life and Health Valuation Manual for policies written on or after January 1, 2017, which are required to be followed pursuant to Tenn. Code Ann. §§ 56-1-901, *et seq.* and further as a condition of the Department's accreditation with the NAIC.

- (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;

This emergency rule is promulgated pursuant to T.C.A. §§ 56-1-418, 56-1-901, *et seq.*, 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

- (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;

This rule will affect insurance companies selling accident and health insurance in the State of Tennessee. However, as this is an NAIC guideline, all companies are aware of the update and will adjust their reserving practices accordingly.

- (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 known.

- (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;

None.

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

Michael Humphreys, Assistant Commissioner for Insurance; Rachel Jrade-Rice, Director of Insurance; Brian Hoffmeister, Director of Policy Analysis, Mark Jaquish, Director of Financial Affairs Section; Benjamin Whitehouse, Assistant General Counsel for Insurance.

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

Benjamin Whitehouse, Assistant General Counsel for 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

Davy Crockett Tower, 8th Floor, 500 James Robertson Parkway, Nashville, Tennessee 37243; 615-741-2616; ben.whitehouse@tn.gov

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

None.

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Sequence Number: 04-07-17
Rule ID(s): 6508
File Date (effective date): 4/11/17
End Effective Date: 10/8/17

Emergency Rule Filing Form

Emergency rules are effective from date of filing for a period of up to 180 days.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Benjamin Whitehouse
Address:	Davy Crockett Tower, 8 th Floor 500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	615-741-2616
Email:	ben.whitehouse@tn.gov

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

Pursuant to T.C.A. § 4-5-208, the Commissioner of Commerce and Insurance ("Commissioner") is authorized to promulgate emergency rules in the event that the rules are required by an enactment of the general assembly within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in T.C.A. Title 4, Chapter 5, for the promulgation of permanent rules.

T.C.A. § 56-1-418 requires the Commissioner to promulgate rules which provide the basis for assessing the minimum reserve standards for accident and health insurance policies. Recently, the National Association of Insurance Commissioner ("NAIC") adopted new and updated accounting practices and procedures containing the tables and information on which such an analysis is to be based. Such adoption was evidenced by a vote at the NAIC on June 10, 2016, making the Standard Valuation Law, compiled in Tenn. Code Ann. § 56-1-901, *et seq.* effective January 1, 2017. Accordingly, the NAIC and Tennessee Insurance Law require compliance with such updates as a provision of the Department's accreditation with the NAIC. The Department's existing rules specifically prescribe the use of now outdated tables and information on which these reserves are to be evaluated, and need to be updated immediately as the implementation date of the new NAIC guidelines has passed, which was January 1, 2017. These rules are necessary for the Department to apply the now effective NAIC principle-based reserving guidelines.

Due to the length of time necessary to complete the rulemaking process to promulgate rules for the update of these reserving standards, these emergency rules are required in order for the Commissioner to comply with the obligation to establish these standards by rule at the direction of the Legislature and to ensure that the Commissioner has the necessary resources to implement T.C.A. § 56-1-418. The Commissioner will promptly conduct a rulemaking hearing to consider comments on the adoption of these as permanent rules; the notice of rulemaking hearing is being filed contemporaneously with these emergency rules.

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
0780-01-69	Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Rule Number	Rule Title
0780-01-69-.06	Calculation of Reserves as of January 1, 2017
0780-01-69-.07	Effective Date

Rule 0780-01-69-.06
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.06 Calculation of Reserves as of January 1, 2017

- (1) For policies issued on or after January 1, 2017, the minimum reserve standards for individual and group accident and health policies shall be calculated in accordance with the National Association of Insurance Commissioners Life and Health Valuation Manual in effect for the period at the time of the review of the adequacy of the minimum reserves. The commissioner may also employ other guidelines or procedures the commissioner deems appropriate.
- (2) Claim reserves for policies issued before January 1, 2017 for claims incurred on and after January 1, 2017 shall follow the requirements in the NAIC Accounting Practices and Procedures Manual, Appendix A, A-010.

Authority: T.C.A. §§ 56-1-418, 56-1-901, et seq., 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

Rule 0780-01-69-.07
Minimum Reserve Standards for Individual and Group Health Insurance Contracts
Amendments

0780-01-69-.07 Effective Date

For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued before January 1, 2017, rule 0780-01-69-.01 through rule 0780-01-69-.05 shall apply. For the purpose of calculating the minimum reserve standards for individual and group accident and health policies issued on or after January 1, 2017, rule 0780-01-69-.06 shall apply. For calculating claim reserves on policies issued before January 1, 2017 for claims incurred on or after January 1, 2017, rule 0780-01-69-.06 shall apply.

Authority: T.C.A. §§ 56-1-418, 56-1-901, et seq., 56-1-904, 56-1-906, 56-1-909 and 56-2-301.

* 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)
N/A					

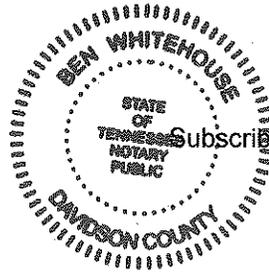
I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: March 30 2017

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance



Subscribed and sworn to before me on: March 30, 2017

Notary Public Signature: [Signature]

My commission expires on: May 8, 2018

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

Herbert H. Slatery III
Attorney General and Reporter

4/7/2017

Date

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Filed with the Department of State on: 4/11/17

Effective for: 180 *days

Effective through: 10/8/17

* 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

DEPARTMENT: Board of Cosmetology and Barber Examiners

DIVISION: Regulatory Boards

SUBJECT: Barber Board Licensing Fees

STATUTORY AUTHORITY: Not Applicable

EFFECTIVE DATES: June 7, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: 0440-02-.13 - Increases the fees for individual licenses, individual renewals, shop licenses, shop renewals, and reciprocity. Adds a fee for new dual shop licenses, dual shop license renewals, annual school renewals, and retiring a license.

0200-01.11 – Adds specific rules regarding candidates scheduling examinations and paying fees for master barber registration, master barber instructor registration and technician registration. Adds rules regarding reinstating a master barber registration or technician registration that has been expired for more than three years. Decreases registration fees, renewal fees, and penalty for late renewal fees for master barbers, technicians, barber instructors, barber schools and colleges. Adds a fee for retirement of a license, new dual shop license, and dual shop license renewal. Increases the fee for a lost, misplaced or mutilated certificate of registration.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public hearing comments on these rules.

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 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, or directly benefit from the proposed rule;

All professional licenses in this program will be impacted by the proposed rules. There are about 10,690 licensed shops whose fees will change. There are approximately 55,827 licensed cosmetologists and barbers whose fees for license renewal will change. There are approximately 105 licensed barber and cosmetology schools whose fees will change.

2. The 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;

The proposed rules do not create any new schedules or deadlines for reporting compliance. No new profession type will be required to administer these new rules.

3. A statement of the probable effect on impacted small businesses and consumers;

The proposed rules will affect all licensed businesses and all licensed professionals in this program. Some licenses will cost significantly less while others are going to have small increases. The proposed rules will create uniform fees for licensees businesses regardless of whether they are licensed under the cosmetology or barber statute. Cosmetologists will be paying \$10 more than they are currently paying every two years to renew a license. Barbers will be paying \$20 less than they currently pay every two years to renew their license.

4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business;

The purpose of changing the fees was to allow the program to run on a realistic budget while self-sustaining. The fees are only raised a small amount so that each individual licensee will not feel a great financial burden. There are no less burdensome, less intrusive or less costly methods of achieving the purpose of these proposed rules.

5. A comparison of the proposed rule with any federal or state counterparts; and

There is no state or federal counterpart to the proposed rules.

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.

The overwhelming majority of businesses that are affected by these rules are small businesses. Therefore, allowing separate compliance requirements would not be feasible. These rules do not create any new schedules, deadlines, or reporting compliance. These rules were created to accommodate small businesses in Tennessee.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no expected impact on local governments by the promulgation of the proposed rules.

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;

0440-02-.13- Increases the fees for individual licenses, individual renewals, shop licenses, shop renewals, and reciprocity. Adds a fee for new dual shop licenses, dual shop license renewals, annual school renewals, and retiring a license.

0200-01-.11- Adds specific rules regarding candidates scheduling examinations and paying fees for master barber registration, master barber instructor registration and technician registration. Adds rules regarding reinstating a master barber registration or technician registration that has been expired for more than three years. Decreases registration fees, renewal fees, and penalty for late renewal fees for master barbers, technicians, barber instructors, barber schools and colleges. Adds a fee for retirement of a license, new dual shop license, and dual shop license renewal. Increases the fee for a lost, misplaced or mutilated certificate of registration.

- (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;

There are no known other federal or state laws or rules requiring the promulgation of these rules.

- (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 proposed rules will affect all licensees including individuals, shops and schools. None of these parties have taken a position to urge adoption or rejection of these rules in the form of public hearing comments or otherwise.

- (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 of the attorney general and reporter or any judicial ruling that directly relate to the rule or the necessity to promulgate the rule.

- (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 promulgation of these rules is expected to increase state government revenues by approximately \$326,715. This estimate is based upon an analysis by the accounting department for the Tennessee Department of Commerce and Insurance.

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

Cherrelle Hooper
Assistant General Counsel

Roxana Gumucio
Executive Director

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

Cherrelle Hooper

Assistant General Counsel

Roxana Gumucio
Executive Director

(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

Cherrelle Hooper
Assistant General Counsel
500 James Robertson Parkway
Nashville, TN 37243
615-532-0631
Cherrelle.Hooper@tn.gov

Roxana Gumucio
Executive Director
500 James Robertson Parkway
Nashville, TN 37243
615-532-7081
Roxana.Gumucio@tn.gov

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

None

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Sequence Number: 03-08-17
 Rule ID(s): 6459-6460
 File Date: 3/9/17
 Effective Date: 6/7/17

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 Board of Cosmetology and Barber Examiners
Division:	Regulatory Boards
Contact Person:	Cherelle Hooper, Assistant General Counsel
Address:	500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-741-3072
Email:	cherelle.hooper@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
0440-01	Licensing
Rule Number	Rule Title
0440-01-.13	Fees

Chapter Number	Chapter Title
0200-01	Rules of the Barber Board
Rule Number	Rule Title
0200-01-.11	Fees

Chapter 0440-01
Licensing

Amendments

Rule 0440-01-13 Fees is amended by deleting the text of the rule and substituting the following so that as amended the rule shall read:

(1) Application/examination

- (a) A candidate shall schedule the test needed for a specific license (cosmetologist, manicurist, instructor, aesthetician, shampoo technician, or natural hair stylist) with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency.
- (b) The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to ~~Tenn. Code Ann.~~ T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

(2) Original License

- (a) Cosmetologist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (b) Manicurist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (c) Instructor..... ~~seventy dollars (\$70.00)~~ eighty dollars (\$80.00)
- (d) Aesthetician..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (e) Shampoo Technician..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (f) Natural Hair Stylist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)

(3) Renewal

- (a) Cosmetologist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (b) Manicurist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (c) Instructor..... ~~sixty dollars (\$60.00)~~ seventy dollars (\$70.00)
- (d) Aesthetician..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (e) Shampoo Technician..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- (f) Natural Hair Stylist..... ~~fifty dollars (\$50.00)~~ sixty dollars (\$60.00)
- ~~(g) Retired License reactivation..... Fifty dollars (\$50.00)~~

(4) Penalty for late renewal

- (a) Cosmetologist, manicurist, instructor, aesthetician, shampoo technician, and natural hair stylist..... twenty-five dollars (\$25.00)

(5) Cosmetology, manicure, skin care, natural hair stylist or manicure/skin care shops

- (a) Inspection (new shop, relocated shop, shop with change of ownership)
..... fifty dollars (\$50.00)
- (b) License
 - new shop..... ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00)
 - relocated shop..... ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00)
 - change of ownership..... ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00)
- (c) Renewal..... ~~fifty dollars (\$50.00)~~ seventy five dollars (\$75.00)
- (d) Penalty for late renewal..... fifty dollars (\$50.00)

- (e) Change of name only..... ten dollars (\$10.00)
- (f) Change of ownership due to death of immediate family, no charge, with a copy of the death certificate or obituary.
- (g) New Dual shop license one hundred and fifty dollars (\$150.00)
- (h) Dual shop license renewal..... one hundred dollars (\$100.00)
- (i) Dual shop penalty for late renewal..... fifty dollars (\$50.00) per year
- (6) School
 - (a) Application/license (new school) ~~three hundred dollars (\$300.00)~~ three hundred and fifty dollars (\$350.00)
 - (b) License for relocated or change of ownership for a school
..... one hundred and seventy-five dollars (\$175.00)
 - (c) Penalty for late monthly report from schools of hours attended by students
..... twenty-five dollars (\$25.00)
 - (d) Annual school renewal..... one hundred and fifty dollars (\$150.00)
- (7) Replacement or correction of license
 - (a) Lost, misplaced or mutilated license..... twenty-five dollars (\$25.00)
 - (b) Change of name by any cosmetologist, aesthetician, manicurist, instructor, shampoo technician, natural hair stylist or shampoo/manicurist... ten dollars (\$10.00)
 - (c) Certification for licensee fifty dollars (\$50.00)
 - 1. Fee should be sent with:
 - (i) written request for certification
 - (ii) I.D. number
 - (d) Student certification of hours..... twenty-five dollars (\$25.00)
 - 1. Fee should be sent with:
 - (i) certification request form
 - (ii) completion/withdrawal form (unless previously submitted)
- (8) Surcharge to issue manicurist license to former shampoo/manicurist as in Tenn. Code Ann. § 62-4-131(c)..... twenty-five dollars (\$25.00)
- (9) Reciprocity..... ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00)

The fee for application through reciprocity must be received along with the applicant's initial application documents. Any reciprocity application received without this fee shall be incomplete and will not be considered.

- (10) Retiring a license..... fifty dollars (\$50.00)

~~(11)~~ (40) In the event that any check, draft or order for the payment of a fee to the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified check or money order will be accepted for the amount due, plus twenty dollars (\$20.00) additional fee.

~~(12)~~ (44) Applications for licensure of a salon are valid for ninety (90) days after approval by the Board. Failure to

obtain an approved inspection for operation within the ninety (90) days shall invalidate the application and require a new application and fee.

Authority: T.C.A. §§ 62-4-105(e), 62-4-110, 62-4-112, 62-4-115, 62-4-117, 62-4-118, 62-4-120, 62-4-121, 62-4-131 and 62-4-132

Chapter 0200-01
Rules of the Barber Board

Amendments

Rule 0200-01-.11 Fees is amended by deleting the rule in its entirety and substituting the following language so that as amended, the rule shall read:

(1) The Board shall charge and collect the following fees and penalties:

(a) Master Barbers

1. ~~Examination, set by contract~~ A candidate shall schedule an examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.
2. Certificate of registration.....~~seventy-five dollars (\$75.00)~~ sixty dollars (\$60.00)
3. Renewal.....~~eighty dollars (\$80.00)~~ sixty dollars (\$60.00)
- ~~4. Reinstatement of certificate of registration within one (1) year of expiration (includes penalty) one hundred and sixty dollars (\$160.00)~~
~~Penalty for late renewal..... sixty dollars (\$60.00) per year that the renewal is late.~~
4. Penalty for late renewal up until one (1) year of expiration, sixty dollars (\$60.00).
- ~~5. Reinstatement of certificate of registration if more than one (1) year but less than two (2) years since expiration (includes penalty) three hundred and twenty dollars (\$320.00) if more than two (2) years but less than three (3) years four hundred and eighty dollars (\$480.00)~~
5. Reinstatement of certificate of registration if more than one (1) year but less than three (3) years, a fee as set forth in T.C.A. § 62-3-129(c)(1).
- ~~6. 6. For the reinstatement of a certificate of registration for a master barber license which has been expired for more than three (3) years, a new application for examination and the examination fee shall be submitted. If successful, the applicant shall pay the specified license fee. The examination shall consist of a practical examination before the board. Such applicant shall not be required to meet the qualifications for a certificate of registration established in T.C.A. § 62-3-110(b)(2) and (3).~~
- ~~7. 7. Change of name.....ten dollars (\$10.00)~~
8. Retirement of license fifty dollars (\$50.00)

(b) Technicians

1. ~~Examination, set by contract~~ A candidate shall schedule an examination with the Board's

designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.

2. Certificate of registration ~~seventy-five dollars (\$75.00)~~ sixty dollars (\$60.00)
3. Renewal..... ~~eighty dollars (\$80.00)~~ sixty dollars (\$60.00)
4. ~~Reinstatement of certificate of registration within one (1) year of expiration (includes penalty) one hundred and five dollars (\$105.00)~~
4. Penalty for late renewal up until one (1) year of expiration sixty dollars (\$60.00).
5. For reinstatement of a certificate of registration over one (1) year after its expiration, a new examination application shall be submitted. If successful, the applicant shall pay the specified license fee. The examination shall consist of a practical and law examination. Such applicant shall not be required to meet the qualifications for a certificate of registration established in Tenn. Code Ann. T.C.A. § 62-3-110(a).
6. Change of name..... ten dollars (\$10.00)
7. Retirement of license fifty dollars (\$50.00)

(c) Barber Schools or Colleges

1. Certificate of registration..... ~~six hundred dollars (\$600.00)~~ three hundred and fifty dollars (\$350.00)
2. Renewal..... ~~three hundred and fifty dollars (\$350.00)~~ one hundred and fifty dollars (\$150.00)
3. Reinstatement of certificate of registration within one (1) year of expiration (includes penalty) ~~three hundred and seventy five dollars (\$375.00)~~ one hundred and seventy five dollars (\$175.00)
4. Change of ownership and/or location..... ~~three hundred and fifty dollars (\$350.00)~~ one hundred and seventy five dollars (\$175.00)
5. Change of name ten dollars (\$10.00)

(d) Barber Instructors

1. Examination set by contract A candidate shall schedule an examination with the Board's designated testing agency and pay an examination fee that will include any fees charged by the designated testing agency. The Board shall set the examination fee through choosing a contractor from a solicitation process pursuant to T.C.A. § 12-3-501, et seq. and the Comprehensive Rules and Regulations of the Central Procurement Office found at Tenn. Comp. R. & Reg. Chapter 0690-03-01, or any other predecessor rules and laws of the State of Tennessee regarding the procurement of such contracts.
2. Certificate of registration..... ~~eighty-five dollars (\$85.00)~~ eighty dollars (\$80.00)
3. Renewal..... ~~ninety dollars (\$90.00)~~ seventy dollars (\$70.00)
4. ~~Penalty for late renewal of certificate of registration per year..... eighty dollars (\$80.00)~~

Penalty for late renewal of certificate of registration within one (1) year of expiration seventy (\$70.00) dollars

~~5. Reinstatement of certificate of registration if more than one (1) year since expiration (includes penalty) three hundred and sixty dollars (\$360.00) plus for each additional year or portion thereof one hundred and eighty dollars (\$180.00)~~

5. Reinstatement of certificate of registration if more than one (1) year since expiration (includes penalty) a fee as set forth in T.C.A. § 62-3-129(c)(3).

6-6. Change of name.....ten dollars (\$10.00)

7. Retirement of license fifty dollars (\$50.00)

(e) Barber Shops

1. To register a new barber shop or for change of ownership and/or location, the following fees are required:

(i) Inspection.....fifty dollars (\$50.00)

(ii) Certificate of registration..... one hundred dollars (\$100.00)

2. Renewal..... one hundred dollars (\$100.00) seventy-five dollars (\$75.00)

~~3. Reinstatement of certificate of registration within one (1) year of expiration (includes penalty)..... one hundred and twenty-five dollars (\$125.00)~~

~~4. Reinstatement of certification if registration is more than one (1) year since expiration (includes penalty)..... four hundred dollars (\$400.00) plus for each additional year or portion thereof two hundred dollars (\$200.00)~~

~~3. Penalty for late renewal..... one hundred and fifty dollars (\$150.00) per year that renewal is late Penalty for late renewal up until one (1) year of expiration, ... seventy five (\$75.00) dollars.~~

~~4. Reinstatement of certification if registration is more than one (1) year since expiration (includes penalty) as set forth in T.C.A. § 62-3-129(c)(4).~~

~~55. Change of name.....ten dollars (\$10.00)~~

(f) New Dual shop license one hundred and fifty dollars (\$150.00)

(g) Dual shop license renewal..... one hundred dollars (\$100.00)

(h) Dual shop penalty for late renewal fifty dollars (\$50.00) per year.

(f) (i) Certifications to other Jurisdictions

1. License certification..... fifty dollars (\$50.00)

2. Student certification of hours..... ~~fifty dollars (\$50.00)~~ twenty five dollars (\$25.00)

~~(g) (i) Barber instructor assistant certificate of registration~~
~~.....twenty-five dollars (\$25.00)~~

~~(h) (k) Reciprocity..... one hundred and fifty dollars (\$150.00) one hundred dollars (\$100.00)~~

- (+) (l) In the event that any check, draft or money order for the payment of a fee to the ~~Board of Barber Examiners~~ the Board of Cosmetology and Barber Examiners is returned because of insufficient funds, only cash, certified checks or money orders will be accepted for the amount due, plus a penalty fee of twenty dollars (\$20.00).
- (+) (m) Change of ownership in a barber school or shop due to the death of an immediate family member.....no charge.
Application must be accompanied by death certificate or notice.
- (k) (n) ~~Replacement of or correction of license lost, misplaced or mutilated certificate of registration ten dollars (\$10.00).....~~ twenty five dollars (\$25.00).

Authority: T.C.A. §§ 62-3-113, 62-3-117, 62-3-122, 62-3-128 and 62-3-139129

* 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)
Kelly Barger	X				
Anita Charlton	X				
Nina Coppinger	X				
Bobby Finger	X				
Frank Gambuzza	X				
Brenda Graham	X				
Judy McAllister	X				
Patricia Richmond	X				
Mona Sappenfield	X				
Amy Tanksley	X				
Ron Gillihan				X	
Yvette Granger				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Board of Cosmetology and Barber Examiners on December 12, 2016, 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: (10-20-16)

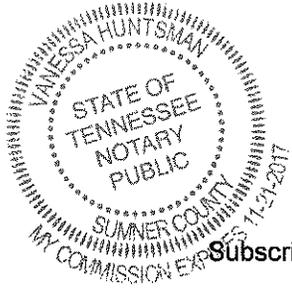
Rulemaking Hearing(s) Conducted on: (add more dates). (12-12-16)

Date: 2/14/17

Signature: *Cherrelle Hooper*

Name of Officer: Cherrelle Hooper

Title of Officer: Assistant General Counsel



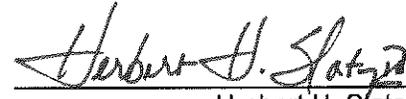
Subscribed and sworn to before me on: 2/14/17

Notary Public Signature: *Vanessa Huntsman*

My commission expires on: 11/21/2017

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.

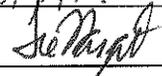
0440-01-.13 Fees
0200-01-.11 Fees


Herbert H. Slatery III
Attorney General and Reporter
2/24/2017
Date

Department of State Use Only

Filed with the Department of State on: 3/9/17

Effective on: 6/7/17


Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance

DIVISION: Fire Prevention

SUBJECT: Electrical Installations (Inspection Fee Increase)

STATUTORY AUTHORITY: Not applicable

EFFECTIVE DATES: June 21, 2017 through June 30, 2018

FISCAL IMPACT: Increasing the permit fees to \$35.00 will result in an increase in revenue. There were approximately 163,000 electrical permits purchased from July 2015 through July 2016, costing \$27.00. Using these figures, the total estimated return was approximately \$4,401,000 (163,000 x 27). Increasing the fee to \$35.00 would result in a total return of approximately \$5,705,000 (163,000 x 35). The difference in the totals is \$1,304,000.

Electrical inspectors retain 85%, and the department retains the remaining 15% of permit fees. The estimated percentage paid to inspectors based on \$27.00 permits was approximately \$3,740,850 (\$4,401,000 x .85). At \$35.00, the amount would increase to \$4,849,250 (\$5,705,000 x .85). The difference in those totals is \$1,108,400.

The Department retained an estimated \$660,150 based on \$27.00 permits (\$4,401,000 x .15). At \$35.00, the return would increase to \$855,750. The difference is \$195,600.

STAFF RULE ABSTRACT: In 0780-02-01-.02 Adoption by Reference, the proposed rules update the current minimum statewide electrical standards for buildings and structures in Tennessee. Specifically, the 2008 National Electrical Code (NEC) is replaced with the 2014 edition. The reference to the 2008 edition is amended throughout the chapter to reflect adoption of the 2014 edition. The changes include one section of the NEC which will be considered optional. Section 110.24, Available Fault Current, requires certain service equipment to be marked with the maximum

available fault current and for the maximum available fault current to be verified and recalculated as necessary to ensure service equipment ratings are sufficient at the line terminals of the equipment. This was not previously required in the 2008 edition of the NEC. This provision should be optional as the maximum available fault current changes constantly based on the weather, number of persons using electricity in the building, etc. Requiring owners or managers of commercial installations to recalculate repeatedly the available current is not considered a practical requirement.

In 0780-02-01-.04 Inspections, the proposed rules include edits to citations and terminology. The substantive changes will allow deputy fire marshals to perform electrical inspections where the need arises, so long as they are properly certified. Furthermore, the amendments provide that an inspection will be required on the re-connections of electrical power to a building. Additionally, supplying of electrical power for final inspections will be required in residential and commercial buildings in which the electrical power has been disconnected. The amendments also add the requirement that all signs receiving electrical power shall be inspected.

In 0780-02-01-.05 Permits, the proposed rules clarify that the permit application fee of five dollars (\$5.00) is in addition to all other required inspection fees. Another change will delete language related to the electrician registration program which is no longer in effect through the Division of Fire Prevention. This responsibility is currently handled by the Tennessee Board for Licensing Contractors.

In 0780-02-01-.07 Special Occupancies, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed.

In 0780-02-01-.11 Dwelling Units, the amendment deletes the specifications for lighting in clothes closets, which are addressed in the 2014 edition of the NEC. Moreover, the proposed amendment, related to smoke alarms, reflects the statutory changes made in TN Public Chapter No. 120 (2015). The primary changes clarify that the statute is applicable to newly constructed homes and changes the term smoke detector to smoke alarm, which is more commonly used in the industry. Additionally, installations of smoke alarms must be in accordance with building standards adopted by the state fire marshal pursuant to Tenn. Code Ann. § 68-120-101 rather than the 2003 International Residential Code. The most substantive

statutory change to the smoke alarm section is the removal of the previous exemption which exempted a one family dwelling unit built and occupied by the family from the smoke alarm requirements. Additional language clarifies that light fixtures in crawl spaces of dwelling units shall have guarded covers and is identical to the requirement for the installation of HVAC units in Tenn. Comp. R. & Regs. 0780-02-01-.13. The amendment also deletes the language permitting arc-fault circuit interrupters to be optional in all rooms other than bedrooms and increases the maximum amount of electrical outlets that are permissible on fifteen (15) and twenty (20) amp circuits. Furthermore, the proposed rules delete the language in the last two sections permitting weather resistant receptacles to be optional.

In 0780-02-01-.15 Used Manufactured Homes, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed.

In 0780-02-01-.20 Local Government Authorization to Perform Electrical Inspections, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed.

In 0780-02-01-.21 Inspection Fees, the proposed rules increase the fees for final inspections on 0-200 ampere capacity installations from twenty-seven (\$27.00) to thirty-five (\$35.00). Additionally, the fee for rough-in inspections based on a rejection of 0-1,000 ampere capacity, re-inspections on 0-1,000 ampere capacity installations, and inspections of HVAC units are all increased to thirty five (\$35.00).

In 0780-02-01-.22 Boat Docks and Marinas, the proposed rules clarify the appropriate section of the NEC to be used when the time of the installation cannot be determined. Additionally, the rules add language permitting voltage in yard and pier distributions systems to exceed the maximum voltage specified in the NEC if written documentation is submitted from a licensed engineer.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Deputy Electrical Inspectors Ronnie Gray and Bill Harrington commented in support of the proposed increase in electrical permit fees, especially in relation to pay increases for electrical inspectors who are independent contractors who are paid for inspections performed. Mr. Gray specifically asked why it has been so long since the fees have changed.

Gary Farley, Director of the Electrical, Residential and Marina Inspection Section, and Joseph Underwood, Chief Counsel, for the Division of Fire Prevention ("Division"), responded on behalf of the Division by providing a summary of the rulemaking process, and explained that previously any electrical permit fee change had to be approved directly by the General Assembly because the fees were established in statute (TCA 68-102-143) until the enactment of Public Chapter 150 (2013). The last electrical permit fee increase by the General Assembly was implemented in 2005. Mr. Farley explained that this rulemaking hearing is the Division's first opportunity to increase electrical permit fees through the rulemaking process.

Electrical Inspector Doug Turnbull commented in support of updating the state electrical standards and adopting the 2011 edition of the National Electrical Code ("NEC") published by the National Fire Protection Association ("NFPA").

Mr. Farley on behalf of the Division acknowledged and agreed with his comments.

Mr. Andy Lee, a professional mortgage and construction lender who is also associated with the Phoenix Society for Burn Survivors, spoke against the proposed rules in particular the section which requires arc fault circuit interrupters ("AFCIs") to be installed in bedrooms only. Mr. Lee offered comments that AFCIs are required by nearly every other state and that they stop electrical fires from occurring. Mr. Lee spoke personally as a burn survivor about his losses suffered from fire and also from his own perspective as a mortgage lending professional. Mr. Lee spoke in favor of adopting the 2017 edition of the NEC instead of the proposal to adopt the 2011 NEC with amendments regarding AFCIs. Mr. Lee commented that people moving to Tennessee want to know and be reassured that the new homes they are purchasing meet current electrical standards. He also stated that Tennessee should adopt current standards and not be satisfied with being 3 to 6 years behind every other state. Mr. Lee stated that all new homes need to be built safe utilizing current technology. Mr. Lee stated that he wants new construction to be competitively priced but safe, too. Mr. Lee stated that at a cost of \$300 for an average 2200 square foot home, AFCIs can be installed at less than \$0.15 a square foot on homes that are selling for \$100 per square foot to over \$200 per square foot in some neighborhoods. Mr. Lee also stated that as electrical fires are among the top 3 causes of fire fatalities in Tennessee, the Division needs to adopt the latest edition of a NEC to reduce the likelihood and causes of electrical fires. Mr. Lee stated that it will reduce the causes of fires by requiring AFCIs in all newly built homes, along with other fire safety devices. Mr. Lee stated that if proven technologies exist to stop these fires from starting, then they need to be required and not allowed to be optional. Mr. Lee requested that the Division ensure the protection of the citizens of Tennessee by adopting the most updated electrical code requirements and require and expand the use of arc fault interrupters beyond what is provided in the proposed amendments.

Mr. Farley responded on behalf of the Division by thanking Mr. Lee for his comments and stated that all comments received by the Division would be considered and reviewed after the hearing.

Mr. Jeff Sargent, regional electrical code specialist with the NFPA, spoke in regards to the proposed rules and adoption of the 2011 NEC. Mr. Sargent explained that the NFPA publishes new revised electrical codes every 3 years and the 2011 is several editions old. He urged the Division to consider adopting the 2014 or 2017 NEC, if possible, as these editions are more recently published and include the latest in safety technology for the electrical industry. Mr. Sargent also spoke against the proposed amendments for weather resistant receptacles, tamper resistant receptacles and AFCIs. Mr. Sargent states that new technology has made the weather resistant receptacle more robust and more resilient to various environmental conditions such as: dampness, wetness,

ultraviolet exposure, etc. Mr. Sargent stated that ground fault circuit interrupters ("GFCIs") are another critical piece to home safety for people plugging into these receptacles. He stated that GFCIs keep people alive and that we don't want GFCIs to fail prematurely. He urged the Division not to amend that part of the adopted code as the requirements for weather resistant receptacles are considered to be the minimal standard. He also questioned why the Division would seek to lessen the minimum standard. Mr. Sargent also spoke against the proposed amendment to allow tamper resistant receptacles to be optional in dwelling units. Mr. Sargent stated that tamper resistant receptacles protect one of our most vulnerable population segments, i.e. young children. He stated that there are thousands of documented cases of children receiving burns from inserting something into open standard receptacles and tamper resistant receptacles were created and designed to prevent this type of injury. Mr. Sargent again asked why the Division would seek to lessen the minimum standard. He stated that tamper resistant receptacles should be mandatory as they are an inexpensive solution to this real problem. Mr. Sargent concluded his statements by stating his opposition to the proposed amendment for AFCIs and professing the need for AFCIs throughout a dwelling unit and not just in bedrooms. He stated that fires do not just start in bedrooms and that AFCIs were first introduced in the electrical code in 1999. He stated that the requirements for AFCIs have been incrementally expanded as the code changed in new editions over the years to verify that these devices were working effectively. He stated that there was no good reason for not expanding the use of AFCIs throughout a dwelling unit and making them a mandatory requirement as they are a fire protection device. He concluded his comments by stating that AFCIs are an important safety device and asked why the state would want to reduce the level of safety in a dwelling unit.

Mr. Farley responded on behalf of the Division by thanking Mr. Sargent for his comments and stated that again all comments received by the Division would be considered and reviewed after the hearing.

Mr. Carl Peas, Fire Marshal for the city of Murfreesboro and current member (and past president) of the board of directors for the Tennessee Fire Safety Inspectors Association, spoke in opposition to the proposed amendment which requires AFCIs only in the bedrooms of dwelling units. Mr. Peas stated that the purpose of the Tennessee Fire Safety Inspectors' Association is to oversee fire safety inspectors and encourage the highest professional standards and conduct as well as to improve inspection procedures and educate the general public about the importance of fire prevention and suppression efforts. Mr. Peas stated that his association formally opposes an electrical safety code amendment that will restrict use of arc fault interrupters to the 2005 NEC levels by confining these devices to bedrooms only and making them optional instead of required in other areas of a home. Mr. Peas stated that the 2017 NEC requires these devices throughout the homes including kitchens and laundry areas where many fires start and that it defies explanation why the Division would not adopt those requirements. He stated that AFCIs are proven and tested safety devices which have been required in the NEC since 1999, and that if the Division adopts the optional requirements for AFCIs except for bedrooms then Tennessee will be at the 2005 safety level instead of the 2011, 2014, or 2017 levels. Mr. Peas concluded that he would like to see the state advance by making fire prevention technology a requirement versus allowing it to be optional.

Mr. Farley responded on behalf of the Division by thanking Mr. Peas for his comments and agreeing that the State Fire Marshal's Office is also concerned with safety for the citizens of Tennessee. Mr. Farley stated that the proposed amendments contain the same provisions for AFCIs which were adopted when the current rules were last amended in 2010.

Chief David Windrow, Assistant Chief of Operations for Brentwood Fire and Rescue, appeared representing the Tennessee Fire Chiefs' Association and its more than 500 members. Chief Windrow stated that the Chiefs' Association opposed the amendment which allows the use of AFCIs in bedrooms only. He stated that this amendment, if adopted, would keep Tennessee at the safety level of the 2005 NEC; meaning that Tennessee would be lagging at least 12 years behind the new 2017 NEC requirements. He stated that most other states currently require AFCIs throughout a home, including kitchens and laundry rooms, and asked why would Tennessee in trying to reduce fire deaths adopt such a standard. Chief Windrow asked why Tennessee would do otherwise when other states are making progress and moving forward to require AFCIs throughout homes. He stated that the chiefs' are only interested in life safety and that their goal was to reduce the loss of life and property damage due to fires. Chief Windrow stated that AFCIs are a minimally priced proactive fire safety device that stops a fire before it starts, unlike a sprinkler system which is reactive to a fire after it begins. He stated that, as of this date in 2015, Tennessee had recorded 55 structural fire fatalities, but as of today, September 27, 2016, there were 64 fatalities. He also reiterated that just a few weeks ago in Memphis, 10 people died including 7 children, due to a malfunctioning electrical cord in an air conditioning unit. He stated that if an AFCI had been installed then it possibly could have prevented that tragedy from happening. Chief Windrow stated that the state had an obligation to adopt strong fire protection laws and electrical codes, and that by dismissing the AFCI requirements, or making it optional, will put people's lives at risk of injury and death due to electrical fires. He

stated that the Fire Chiefs' Association cannot support a policy that weakens the state's fire safety codes. He stated that electrical issues were the 3rd leading cause of fires in Tennessee behind cooking and appliances. He stated that appliances are not usually located in bedrooms so the installation of the AFCIs in laundry rooms, kitchens, bonus rooms where all of these electrical appliances are installed could potentially have a significant impact in improving safety.

Mr. Farley responded on behalf of the Division by thanking Chief Windrow for his comments.

Mr. Brian Holland with the National Electrical Manufacturers Association ("NEMA") commented in support of many of the previously made statements and expressed his concern with the Division adopting an electrical standard developed over 7 years ago and is now 2 code cycles old. Mr. Holland explained that technology had been developed and advanced so as to be compatible with the safety requirements of the newer code editions. He also detailed the many available training opportunities on the more recent code editions and that training on the 2011 edition would likely be difficult. Mr. Holland also stressed the importance of adopting the code requirements without amendments for: AFCIs; marking available fault currents on service equipment; weather resistant type receptacles; and child tamper resistant receptacles. He stressed that over the last 2 years, Tennessee averaged 11 deaths per 1,000 fires, which is approximately twice the national average of 5.5 deaths per 1,000 fires during the same period. With 77.4% of the fire deaths in Tennessee occurring in residential structures, Mr. Holland believes that requiring AFCIs will reduce those losses by preventing fires before they can begin. He also noted that the proposed change in terminology from "single bulb holder" to "fixtures" is antiquated and no longer sufficient to describe lighting equipment. Mr. Holland suggested the use of "luminaires" instead of "fixtures," consistent with the national standard. He also opined that in addition to the proposed changes, the current language throughout the remainder of the section is outdated by noting that the rule identifies "incandescent" or "florescent" light sources but neglects the most rapidly growing technology, "light-emitting diodes" (LED's).

Mr. Farley responded on behalf of the Division by thanking Mr. Holland for his comments and that they will be taken under advisement.

Mr. Randy Safer, Southern Regional Director for the National Fire Protection Association ("NFPA"), commented on the inclusion of the rapid shutoff requirement for the photovoltaic systems which appears in the 2014 NEC. This requirement allows firefighters, during pre-fire planning, to document the location of the shut off so that if a fire event occurs; then, the firefighters, upon arriving on the scene, can shut the power off quickly and make the electrical conditions safer for the firefighters to occupy the roof of the building. Mr. Safer also spoke in support of the code requirements without amendments for installing AFCIs and child tamper resistant receptacles in newly constructed homes. He also stated that the NFPA offers free training and other support to state inspectors, fire marshals, and fire inspectors. Mr. Safer stated that Tennesseans deserved to live in buildings that are built to the latest codes and standards. He strongly encouraged the Division to consider adopting the most recent published electrical code (the 2017 NEC), but if not, the 2014 NEC should be adopted.

Mr. Farley responded on behalf of the Division by thanking Mr. Safer for his comments.

Ms. Susan Newman Scarce spoke as a member of the International Association of Electrical Inspectors ("IAEI") and as a member of the code making panel for the NEC. She requested the Division to consider carefully the information presented at the hearing by the participating professionals and leaders in the electrical industry. She reiterated that the Division has been supplied statistics and testimony of the value of the minimum code and the proven safety of the contained requirements, and that by adopting amendments, the state is placing citizens in harm's way. Ms. Scarce stated that there are training resources available to make the improvements required and that Tennessee needs to be a safer place to work and live.

Mr. Farley responded on behalf of the Division by thanking Ms. Scarce for her comments.

Deputy Electrical Inspector Bob Lane commented against the amendment for child tamper resistant receptacles. He spoke about the issues that existed with the old devices but that the newer devices are much improved. He stressed the importance in these devices in protecting children from burns or electrical shock.

Mr. Farley responded on behalf of the Division by thanking Mr. Lane for his comments and stated that he understood there were many complaints about the use of these devices by elderly citizens when the amendment was originally put in the rules in 2010. Mr. Underwood responded by stating the Division may consider revisiting this issue since the technology in manufacturing has improved the functionality of these devices over the past several years.

The Division announced that the comment period would remain open for two (2) additional weeks until October 11, 2016, so that written comments could be submitted to the Division for consideration in the adoption of the proposed rules.

The Division received seven (7) written comments on the proposed rules and amendments.

Ms. Michelle Frost from Clarksville wrote an email as a mother of a firefighter who received and survived burns from an electrical fire in 2007. She spoke in support of adopting the 2014 NEC and requiring AFCIs in all rooms.

Mr. Michael Belitzky submitted an email on behalf of NEMA against the proposed amendments requiring AFCIs only in bedrooms. He emphasized the critical need for AFCIs to be installed throughout residential structures since electrical fires were the 3rd leading cause of fires in Tennessee in 2015. He reiterated that AFCIs are essential safety devices which save lives and prevent property damage due to fire.

Ms. Barbara Frei from Knoxville submitted an email sharing the stories of her two daughters surviving separate fires with one of her daughters living as a burn survivor. She asked the Division to adopt the most up to date standards which require the installation of AFCIs throughout houses. She also reiterated the responsibility of the Division to protect, promote, and improve the health and safety of the citizens of Tennessee.

Ms. Emily Frei from Knoxville, a burn survivor who at age 18 suffered 3rd degree burns on 86% of her body, sent an email urging the Division to adopt the 2014 NEC and all contained requirements for AFCIs in residential structures. She states that AFCIs are safety devices utilized in 48 other states that help prevent fire before they start and that these devices should not be restricted in their use due to costs.

Ms. Sandra Fletchall, Manager of the Burn Rehabilitation/Firefighters' Burn Center in Memphis, submitted an email requesting the Division to expand the uses of AFCIs similar to the requirements of 48 other states with many of the states expanding the use of AFCIs in residential structures. She urged the Division to adopt the 2014 NEC and not remain at the 2005 safety level for the use of AFCIs.

Ms. Amy Acton, registered nurse and Executive Director of the Phoenix Society for Burn Survivors, sent an email opposing the proposed amendment for AFCIs to be required only in bedrooms. She stated that this bad policy would jeopardize thousands of Tennessee lives and put them at risk of potential electrical fires in all new homebuilding. She, as a burn survivor herself and on behalf of nearly 200 other survivors in Tennessee, understands the suffering and devastation caused by fire and how it is to live with the lifelong impact of burn injuries and pain. Ms. Acton strongly urged the Division to adopt the 2017 NEC with its requirements to have AFCIs installed throughout new homes.

Mr. James Pauley, NFPA President and CEO, submitted a letter encouraging the Division to adopt the 2017 edition of the NEC rather than the 2011, as there have been significant improvements made and new innovative technology incorporated into electrical equipment since the 2011 edition was developed. Mr. Pauley wrote against any provision or rule which allows fire and shock protection equipment (such as: AFCIs; weather resistant receptacles; and child tamper resistant receptacles) to be listed as optional rather than required. Mr. Pauley wrote that fire and shock protection equipment should not be optional, no more than seat belts and airbags are. He also emphasized that each edition of the NEC provides better materials and methods to make electrical installations safe; and contrary to popular notion that new codes drive up the cost of construction, there are significant cost savings that can be derived from using the requirements contained in the 2017 edition, even when compared to the 2014 edition. He offered the NFPA readiness to assist Tennessee by providing free training on the 2017 NEC to the state's code enforcement community.

Mr. Farley responded on behalf of the Division by sending emails to the commentators thanking them for their 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.

1. Types and estimated number of small businesses directly affected:

Small businesses involved in electrical installations as well as the building and construction industry will be affected by the promulgation of these rules. Additionally, all small businesses will need to ensure that electrical installations comply with the minimum electrical standards.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in the existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.

3. Probable effect on small businesses:

Small businesses involved in electrical installations as well as the building and construction industry will be affected by the promulgation of these rules.

4. Less burdensome, intrusive, or costly alternative methods:

The amended rules are not anticipated to impact small businesses more than the current rules provide. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.

5. Comparison with federal and state counterparts:

There are no federal counterparts to these rules.

6. Effect of possible exemption of small businesses:

There are no possible exemptions for small businesses to the requirements contained in these rules.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The amended rules will impact local governments which operate electrical inspection programs in their respective jurisdictions.

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;

In 0780-02-01-.02 Adoption by Reference, the proposed rules update the current minimum statewide electrical standards for buildings and structures in Tennessee. Specifically, the 2008 National Electrical Code (NEC) is replaced with the 2014 edition. The reference to the 2008 edition is amended throughout the chapter to reflect adoption of the 2014 edition. The changes include one section of the NEC which will be considered optional. Section 110.24, Available Fault Current, requires certain service equipment to be marked with the maximum available fault current and for the maximum available fault current to be verified and recalculated as necessary to ensure service equipment ratings are sufficient at the line terminals of the equipment. This was not previously required in the 2008 edition of the NEC. This provision should be optional as the maximum available fault current changes constantly based on the weather, number of persons using electricity in the building, etc. Requiring owners or managers of commercial installations to recalculate repeatedly the available current is not considered a practical requirement. In 0780-02-01-.04 Inspections, the proposed rules include edits to citations and terminology. The substantive changes will allow deputy fire marshals to perform electrical inspections where the need arises, so long as they are properly certified. Furthermore, the amendments provide that an inspection will be required on the re-connections of electrical power to a building. Additionally, supplying of electrical power for final inspections will be required in residential and commercial buildings in which the electrical power has been disconnected. The amendments also add the requirement that all signs receiving electrical power shall be inspected. In 0780-02-01-.05 Permits, the proposed rules clarify that the permit application fee of five dollars (\$5.00) is in addition to all other required inspection fees. Another change will delete language related to the electrician registration program which is no longer in effect through the Division of Fire Prevention. This responsibility is currently handled by the Tennessee Board for Licensing Contractors. In 0780-02-01-.07 Special Occupancies, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed. In 0780-02-01-.11 Dwelling Units, the amendment deletes the specifications for lighting in clothes closets, which are addressed in the 2014 edition of the NEC. Moreover, the proposed amendment, related to smoke alarms, reflects the statutory changes made in TN Public Chapter No. 120 (2015). The primary changes clarify that the statute is applicable to newly constructed homes and changes the term smoke detector to smoke alarm, which is more commonly used in the industry. Additionally, installations of smoke alarms must be in accordance with building standards adopted by the state fire marshal pursuant to Tenn. Code Ann. § 68-120-101 rather than the 2003 International Residential Code. The most substantive statutory change to the smoke alarm section is the removal of the previous exemption which exempted a one family dwelling unit built and occupied by the family from the smoke alarm requirements. Additional language clarifies that light fixtures in crawl spaces of dwelling units shall have guarded covers and is identical to the requirement for the installation of HVAC units in Tenn. Comp. R. & Regs. 0780-02-01-.13. The amendment also deletes the language permitting arc-fault circuit interrupters to be optional in all rooms other than bedrooms and increases the maximum amount of electrical outlets that are permissible on fifteen (15) and twenty (20) amp circuits. Furthermore, the proposed rules delete the language in the last two sections permitting weather-resistant receptacles to be optional. In 0780-02-01-.15 Used Manufactured Homes, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed. In 0780-02-01-.20 Local Government Authorization to Perform Electrical Inspections, the proposed rules replace the 2008 edition of the NEC with the 2014 edition. The substance of the rule has not been changed. In, 0780-02-01-.21 Inspection Fees, the proposed rules increase the fees for final inspections on 0-200 ampere capacity installations from twenty-seven (\$27.00) to thirty five (\$35.00). Additionally, the fee for rough-in inspections based on a rejection of 0-1,000 ampere capacity, re-inspections on 0-1,000 ampere capacity installations, and inspections of HVAC units are all increased to thirty five (\$35.00). In 0780-02-01-.22 Boat Docks and Marinas, the proposed rules clarify the appropriate section of the NEC to be used when the time of the installation cannot be determined. Additionally, the rules add language permitting voltage in yard and pier distributions systems to exceed the maximum voltage specified in the NEC if written documentation is submitted from a licensed engineer.

- (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;

Not applicable.

- (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;

Home Builders, Building Officials, Deputy Electrical Inspectors, Fire Safety and Building Inspectors, municipal and county governments and citizens will be affected by this rule. National Electrical Manufacturers Association (NEMA), National Fire Protection Association (NFPA), and the Phoenix Society for Burn Survivors, the Tennessee Fire Chiefs Association, the Fire Safety Inspectors Association, and the International Association of Electrical Inspectors (IAEI) are in support of the proposed amendments. These entities as well as the Tennessee Building Officials Association (TBOA) and the Tennessee Home Builders Association were notified of the rulemaking hearing and open comment period.

- (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;

The Division of Fire Prevention is unaware of any opinion of the attorney general or any judicial ruling that directly relates 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;

Increasing the permit fees to \$35.00 will result in an increase in revenue. There were approximately 163,000 electrical permits purchased from July 2015 through July 2016, costing \$27.00. Using these figures, the total estimated return was approximately \$4,401,000 (163,000 x 27). Increasing the fee to \$35.00 would result in a total return of approximately \$5,705,000 (163,000 x 35). The difference in the totals is \$1,304,000.

Electrical inspectors retain 85%, and the department retains the remaining 15% of permit fees. The estimated percentage paid to inspectors based on \$27.00 permits was approximately \$3,740,850 (\$4,401,000 x .85). At \$35.00, the amount would increase to \$4,849,250 (\$5,705,000 x .85). The difference in those totals is \$1,108,400.

The Department retained an estimated \$660,150 based on \$27.00 permits (\$4,401,000 x .15). At \$35.00, the return would increase to \$855,750. The difference is \$195,600.

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

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance, and Gary Farley, Director of Electrical, Residential and Marina Inspections, 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;

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance and Gary Farley, Director of Electrical, Residential and Marina Inspections, 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

Joseph Underwood, 500 James Robertson Pkwy, Davy Crockett Tower, 8th Floor, Nashville, TN 37243, (615) 741-3899 Joseph.Underwood@tn.gov; Gary Farley, 500 James Robertson Pkwy, Davy Crockett Tower, 9th Floor, Nashville, TN 37243, (615) 741-7170 gary.farley@tn.gov.

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

None.

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For Department of State Use Only

Sequence Number: 03-24-17
Rule ID(s): 6471
File Date: 3/23/17
Effective Date: 6/21/17

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:	Department of Commerce and Insurance
Division:	Division of Fire Prevention
Contact Person:	Joseph Underwood
Address:	500 James Robertson Parkway
Zip:	37243
Phone:	615-741-3899
Email:	Joseph.Underwood@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
0780-02-01	Electrical Installations
Rule Number	Rule Title
0780-02-01-.02	Adoption by Reference
0780-02-01-.04	Inspections
0780-02-01-.05	Permits
0780-02-01-.07	Special Occupancies
0780-02-01-.11	Dwelling Units
0780-02-01-.15	Used Manufactured Homes
0780-02-01-.20	Local Government Authorization to Perform Electrical Inspections
0780-02-01-.21	Inspection Fees
0780-02-01-.22	Boat Docks and Marinas

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

**CHAPTER 0780-02-01
ELECTRICAL INSTALLATIONS**

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0780-02-01-.01 SCOPE.

- (1) The provisions of this chapter shall apply to:
- (a) Installation of electrical conductors and equipment within or on public and private buildings or other structures, including manufactured homes, modular building units and recreational vehicles not otherwise exempt under the provisions of Tenn. Code Ann. Title 68, Chapters 102 and 126; and floating buildings and other premises such as yards, carnivals, parking and other lots; and industrial substations.
 - (b) Installation of conductors that connect to the supply of electricity.
 - (c) Installations of other outside conductors on the premises.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.02 ADOPTION BY REFERENCE. ~~Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for materials, installations, use of facilities, equipment, devices and appliances conducting, conveying, consuming or using electrical energy in, or in connection with, any building, structure, or any premises located in this state shall be those prescribed in the National Electrical Code, 2008 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169.~~

- (1) Unless otherwise provided by applicable law or the provisions of this chapter, the required minimum standards for materials, installations, use of facilities, equipment, devices and appliances conducting, conveying, consuming or using electrical energy in, or in connection with, any building, structure, or any premises located in this state shall be those prescribed in the National Electrical Code (NEC), 2014 edition, published by the National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, Massachusetts 02169 except for:
- (a) Section 110.24, Available Fault Current which shall be optional.

Authority: T.C.A. §§ 68-102-113 and 68-102-143.

TÜV SÜD America, Inc.
 10 Centennial Drive
 Peabody, Massachusetts 01960

Underwriters Laboratories, Inc.
 333 Pfingsten Road
 Northbrook, Illinois 60062

or,

2. Are certified by another independent testing agency or laboratory to meet a standard which, in the Commissioner's, or designee's, judgment, provides an adequate level of safety by being:
 - (i) recognized nationally as an electrical product safety standard;
 - (ii) revised periodically to accommodate the latest developments in electrical products and installations; and
 - (iii) developed by the publisher in a manner which affords adequate opportunity for presentation and consideration of views of industry groups, experts, users, consumers, governmental authorities, and others having broad experience in the field involved.
- (b) Any standard which is accepted by the American National Standards Institute (ANSI) shall be deemed to satisfy the requirements of part 2 of subparagraph (a) above.
- (c) Where there is no published standard for a product under consideration which meets the requirements of part 2 of subparagraph (a) above, the testing agency or laboratory must identify, and justify the adequacy of, the standard or specifications on which its certification is based.
- (d) Components of certified products must be evaluated for compliance with applicable safety standards, and determined to be suitable for use in such products.
- (2) In lieu of evaluation by a testing agency or laboratory in accordance with paragraph (1)(a) above, the Commissioner of Commerce and Insurance, or designee, may consider other satisfactory evidence that a product meets safe and proper standards

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.04 INSPECTIONS.

- (1) Inspections of electrical installations ~~will~~may be conducted by deputy inspectors appointed under contract with the Commissioner of Commerce and Insurance pursuant to T.C.A. § 68-102-143. In circumstances where the need arises as determined by the Commissioner of Commerce and Insurance, or designee, ~~supervisors of deputy inspectors~~deputy fire marshals are authorized to conduct inspections of electrical installations.
 - (a) Fees for such inspections for services, including all circuits connected thereto, based on total ascertainable ampere capacity, are specified in ~~rule~~Tenn. Comp. R. & Regs. 0780-02-01-.21. If the total ampere capacity is not ascertainable, the inspector may negotiate the fee based on the estimated number of required inspections; however, any such fee shall be subject to review and approval by the Commissioner of Commerce and Insurance, or designee, prior to issuance of a permit.

- (b) Fees charged for additional inspections including inspections necessitated by rejections and inspections for circuits not previously connected to the service, shall be based on the ascertainable ampere capacity of the service or ascertainable ampere capacity of the previously unconnected circuit, and shall not exceed the maximum amounts specified in rule Tenn. Comp. R. & Regs. 0780-02-01-.21.
- (c) Inspectors may not charge mileage in excess of the standard travel reimbursement rate, as determined by the Tennessee Department of Finance and Administration, per mile each way for any special trip(s) requested by a property owner or contractor. This mileage charge must be approved in advance by the Commissioner of Commerce and Insurance, or designee.
- (2) (a) Inspections ~~are~~shall be required on:
1. Complete new installations;
 2. HVAC equipment;
 3. New services, re-connections, or changes in services to existing installations;
 4. Additions to existing installations, such as swimming pools, water well pumps to the wellhead, motor installations, additional rooms or spaces to existing buildings, grain drying equipment and out buildings;
 5. Heat cable installations before being concealed by plaster, sheet rock, or other methods;
 6. Conduit or raceways in or under masonry before covering with concrete or other permanent materials;
 7. Conductors or raceways installed in all structures. This inspection is required prior to the concealing of such conductors or raceways by wall covering materials or by insulation;
 8. Temporary services; and
 9. Electrical signs.
- (b) A minimum of two (2) inspections shall be required on wiring installed within or on public and private buildings or other structures. The installer shall notify the electrical inspector in writing whenever any part of a wiring installation is to be hidden from view by insulation or the permanent placement of part of the building. No wiring or raceways shall be concealed until it has been inspected and approved by the inspector. A final inspection shall be requested upon completion of the entire electrical installation.
- (3) When the initial ("rough-in") inspection is conducted:
- (a) All applicable circuit conductors and outlet boxes ~~must~~shall be installed;
 - (b) All joints shall be made; and
 - (c) All grounding connections ~~must~~shall be in compliance with Section 300.10 of the 2008¹⁴ National Electrical Code except as set forth in the exceptions enumerated in this subparagraph.

1. Exception No. 1: Where that portion of an installation which constitutes service conductors and equipment is changed or modified.
 2. Exception No. 2: Where all wiring or raceway is exposed.
 3. Exception No. 3: The requirements of (a) above shall not apply where inspection is performed on raceway systems only.
- (4) The electrical ~~contractor, or the Mechanical Contractor, or the permit holder~~ shall be responsible for making sure the inspector has access to the job to be inspected.
 - (5) The installer permit holder shall notify the inspector when the electrical installation is ready for inspection.
 - (6) Except as provided in ~~rule~~ Tenn. Comp. R. & Regs. 0780-02-01-.05(2) and for installers licensed in accordance with T.C.A. Title 69, Chapter 10, the inspector shall not issue a final certificate of approval on an installation performed by any person, firm, corporation or legal entity not duly licensed in accordance with T.C.A. Title 62, Chapter 6.
 - (7) It is not intended that electric service to an existing installation be disrupted pending inspection of additions or changes to such service; however, an inspection ~~is~~ shall be required within seven (7) days of re-connection by the Power Supplier.
 - ~~(8) Whenever service equipment has been changed out or upgraded on any existing structures, a safety inspection will be conducted pursuant to Tenn. Code Ann. §68-102-143(5).~~
 - ~~(9)~~ Inspections ~~are~~ shall not be required on:
 - (a) Minor repair work, such as replacement of lamps or connection of portable devices to suitable receptacles which have been permanently installed; and
 - (b) Installation, alteration, or repair of electric wiring or equipment installed by an electrical distribution agency for use in the generation, transmission, distribution, or metering of electrical energy.
 - ~~(10)~~ The inspector shall not issue a final certificate of approval on an installation if a building permit has not been obtained, if required, plans have not been reviewed and approved by the Department of Commerce and Insurance, if required, or all inspections have not been performed pursuant to ~~rule~~ Tenn. Comp. R. & Regs. 0780-02-23-.07.
 - (10) For residential and commercial buildings, electrical power shall be supplied to the building in order for inspector to perform final inspection.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.05 PERMITS.

- (1) No electrical wiring on which an inspection is required by this chapter shall be installed without securing an electrical permit from the power distributor, local building official, Commissioner, or designee, or other issuing agent authorized by the Commissioner, or designee. The permit ~~must~~ shall be secured in the area where the work is to be performed; unless, the permit is secured from the Commissioner, or designee. Issuing agents may charge a fee of no more than five dollars (\$5.00) for the issuing of a permit. This fee is in addition to all applicable inspection fees in Tenn. Comp. R. & Regs. 0780-02-01-.21.
- (2) Residential and Non-residential Property Owner's Permits

- (a) Any person may perform electrical work (for which an inspection is required) upon his/her own residence provided he/she first applies for and obtains a residential property owner's electrical permit. This permit shall only extend to the applicant and the immediate members of the applicant's family. The permit shall not authorize assistance by any other person not duly licensed in accordance with T.C.A. Title 62, Chapter 6. A residential property owner's permit shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations. Only one (1) property owner's permit may be obtained within a twelve (12) month period unless the property owner can establish loss of his/her home by fire, windstorm, etc.; and,
 - (b) Any non-residential property owner may obtain a permit for electrical work to be performed on his/her property by an employee(s) licensed pursuant to T.C.A. Title 62, Chapter 6, or T.C.A. Title 69, Chapter 10, who will be performing the work in accordance with his/her duties as an employee(s) of the property owner. A non-residential property owner's permit shall be limited to the specific property listed on the permit and shall automatically expire upon completion of the work for which the permit was issued. All work done under such permit shall be subject to regular inspection requirements and fees and other applicable laws and regulations.
- (3) No permit ~~will~~ shall be required for installation of electrical systems by manufacturers of factory-manufactured structures, recreational vehicles, or modular building units; ~~however, such manufacturers shall register with the Division of Fire Prevention of the Department of Commerce and Insurance, as required by Tenn. Code Ann. §68-102-150.~~ This rule in no way exempts owners of any manufactured home, recreational vehicle or modular building unit from the required installation permit and inspection governed by this chapter.
- (4) When applying for a permit, an applicant shall present:
- (a) A check or money order in the amount of the permit fee for inspection(s), payable to the Department of Commerce and Insurance of the State of Tennessee; and
 - (b) Except for a residential property owner's permit, proof of licensure pursuant to T.C.A. Title 62, Chapter 6 or T.C.A. Title 69, Chapter 10. For a non-residential property owner's permit, the license number of the employee(s) to perform the work and certification that the employee(s) licensed pursuant to T.C.A. Title 62, Chapter 6 or T.C.A. Title 69, Chapter 10, will be performing the work in accordance with his/her duties as an employee(s) of the property owner.
- (5) All electrical permits are non-transferable.
- (6) In the event of rejection of an electrical installation by the inspector, a new electrical permit must be applied for and obtained.
- (7) Every electrical permit shall expire two (2) years from the date of issue unless:
- (a) the inspector determines that substantial progress has been made in the work authorized by the permit; and
 - (b) the permit holder is granted an exception after submitting a written request to the Director of the Electrical Section of the Division of Fire Prevention.

No electrical work for which a permit is required shall be commenced in any building or premises until a permit to perform such work is obtained.

- (8) A copy of the permit shall be placed in the service equipment enclosure as soon as such enclosure is installed.
- (9) If a refund for a permit fee for inspection is requested, eighty-five (85%) percent of the permit fee, the fee that would have been paid to the inspector for the inspection, will be refunded. The remaining fifteen (15%) percent of the permit fee is non-refundable to cover administrative and processing costs. Requests for refunds ~~must~~ shall be made to the Division of Fire Prevention on the applicable form, completed in full, and ~~must be~~ made prior to an inspection being performed.
- (10) A returned check will result in the revocation of an issued permit.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.06 EMERGENCY SITUATIONS.

- (1) Power suppliers may energize services under emergency conditions resulting from windstorm, earthquakes or other catastrophic occurrences.
- (2) Connections for emergency or delayed inspections shall not be made unless a permit has been obtained.

Authority: T.C.A. §§ 68-102-113 and 68-102-150.

0780-02-01-.07 SPECIAL OCCUPANCIES.

- (1) All lighting fixtures in barns and other outbuildings shall be of the non-conductor type directly fastened to the outlet box. Drop lights shall not be installed in barns or other buildings, unless specifically approved for the purpose used. All convenience receptacles in outbuildings shall be at least three (3) feet above floor level. Wiring in hay mows shall be installed in conduit or otherwise protected against mechanical injury.
- (2) Conductors serving swimming pools which originate at a dwelling unit service equipment or sub-panel located on the interior of the dwelling unit may be installed utilizing the appropriate wiring methods contained in Chapter 3 of the 2008¹⁴ National Electrical Code. The wiring method shall comply with Article 680, 2008¹⁴ National Electrical Code regarding that portion of the installation on the exterior of the dwelling unit.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.08 METER LOCATION.

- (1) The power supplier will determine the physical location of the meter base.
- (2) For multi-occupancy structures, metering equipment shall be identified to indicate the occupancy serviced.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.09 INSTALLATIONS SERVICED BY MULTIPLE SOURCES. Transfer equipment associated with installations served by alternate sources of supply shall be equipped with the necessary equipment to prevent backfeed of power onto the power supplier's system when the power supplier's local system is not energized by its own source of power. Protective equipment and installation of equipment to prevent backfeed shall be approved by the power supplier.

Authority: T.C.A. §§ 68-102-113 and 68-102-150.

0780-02-01-.10 SERVICE ENTRANCE CONDUCTORS. Service entrance conductors shall be installed in conduit where such conductors serve a structure with exterior walls of brick, stone, masonry, metal or metal-clad.

Authority: T.C.A. §§ 68-102-113 and 68-102-150.

0780-02-01-.11 DWELLING UNITS.

- (1) Where installed as separate units, ovens and cooktop units shall be served by individual circuits.
- (2) Light fixtures in clothes closets twenty-eight (28") inches or less in depth shall be mounted on the ceiling or wall above the door. These fixtures shall be so located that the fixture is within four (4") inches of the intersection of the ceiling and entrance wall. Such fixtures shall be thermally protected and either incandescent recessed with solid lens or fluorescent with single bulb holder fixtures. Fixtures installed in closets of larger dimensions shall comply with the 2008¹⁴ edition of the National Electrical Code.
- (3) Only designated circuits shall be energized following a "service entrance release" inspection. Such an inspection shall only be valid for a period of forty-five (45) days from the date of inspection.
- (4) All electrical connection, including HVAC equipment, will shall be completed and inspected prior to final approval pursuant to Tenn. Code Ann. §§ 68-102-143(c) and (e), except as defined in paragraph (3) of this section.
- (5) ~~Except as provided in Tenn. Code Ann. § 68-120-111(b), no newly constructed one-and-two family dwellings shall be approved for connection of new electric service on a permanent basis under T.C.A. § 68-102-143, unless such the dwelling is equipped with at least one (1) a smoke detector alarm which, when activated, initiates an alarm audible in every sleeping room. The detector or detectors shall be that has been:~~
 - (a) Listed in accordance with the standards of Underwriters' Laboratories, or another testing agency or laboratory accepted by the state fire marshal; and
 - (b) Installed in accordance with the 2003 International Residential Code, published by the International Code Council, Inc.; building construction safety standards adopted pursuant to T.C.A. § 68-120-101 and in accordance with the manufacturer's directions, unless those directions conflict with applicable codes that are standards adopted by the state fire marshal. Notwithstanding the provisions of the 2003 International Residential Code building construction safety standards adopted pursuant to T.C.A. § 68-120-101, battery operated smoke detector alarms shall be permitted when installed in buildings without commercial power.
- (6) Service equipment shall have only one (1) main means of disconnecting services of two hundred twenty-five (225) amps or below.

- (7) The installation of receptacles for island counter spaces and peninsular counter spaces below the countertop shall be optional.
- (8) Receptacles ~~are~~ shall not be required in the wall space behind doors which may be opened fully against a wall surface. Wall space measurement shall begin at the edge of the door when fully opened.
- (9) Light fixtures in crawl spaces shall have guarded covers.
- ~~(9) Occupancy of a dwelling is~~ shall be prohibited before final inspection has been completed and approved.
- ~~(10) In Article 210.12(B) of the 2008 edition of the National Electrical Code, arc fault circuit interrupters, combination type, shall be required for all bedrooms and in all other rooms shall be optional. There shall be a maximum of no more than ten~~ thirteen (13) outlets on a fifteen (15) ampere circuit or no more than twelve ~~fifteen (15) outlets on a twenty (20) ampere circuit. Smoke alarm outlets are exempt from the count.~~
- ~~(11) In Article 334.15(C) of the 2008~~ 14 edition of the National Electrical Code, Nonmetallic-Sheathed Cable shall not be required to be run through bored holes in unfinished basements and crawl spaces with less than four (4') feet and six (6") inches of clearance.
- ~~(12) In Article 406.8(B) of the 2008 edition of the National Electrical Code, the installation of listed weather-resistant type receptacles shall be optional.~~

Authority: T.C.A. §§ 68-102-113, 68-102-143, 68-102-150 and 68-120-111.

0780-02-01-12 OVERCURRENT PROTECTION. Circuit breakers used as overcurrent protection for circuits serving devices not requiring a grounded (neutral) conductor, such as a 240V water heater, shall be multipole breakers. Single pole circuit breakers with tie handles shall not be approved for this purpose.

Authority: T.C.A. §§ 68-102-113 and 68-102-150.

0780-02-01-13 WORK SPACE ABOUT HVAC EQUIPMENT.

- (1) Installation in attic spaces.
- (a) Entrance way providing access to equipment shall not be less than the largest piece of equipment to be replaced.
- (b) There shall be a vertical clearance of at least four (4) feet and six (6) inches for use by those conducting necessary examination. In addition there shall be a walkway not less than twenty-four (24) inches wide on the ceiling joist running from the attic opening to the equipment, without an obstruction.
- (2) Installation in crawl spaces underneath buildings.
- (a) Entrance way providing access to equipment shall not be less than the largest piece of equipment to be replaced.
- (b) There shall be a vertical clearance of at least four (4') feet and six (6") inches unobstructed crawl space to the unit.

- (c) If four (4') feet and six (6") inches of clearance cannot be maintained, the unit shall be located no more than twelve (12') feet from the entrance opening and a clear unobstructed crawl space not less than thirty (30") inches in height and twenty-four (24") inches in width shall be maintained.
- (d) Light fixtures in crawl spaces shall have guarded covers.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

0780-02-01-.14 REPEALED.

Authority: T.C.A. §§ 68-102-113 and 68-102-150. Administrative History: Original rule certified June 10, 1974. Amendment filed October 24, 1974; effective January 17, 1975. Amendment filed April 20, 1978; effective May 22, 1978. Repeal and new rule filed October 27, 1981; effective December 11, 1981. Repeal and new rule filed June 28, 1984; effective July 28, 1984. Repeal and new rule filed March 12, 1987; effective April 26, 1987. Repeal filed June 27, 1990; effective August 11, 1990.

0780-02-01-.15 USED MANUFACTURED HOMES.

- (1) Manufactured homes shall have listed, enclosed-type service-entrance equipment located inside the manufactured home, with proper rated overcurrent protection for each branch circuit. Overcurrent protection for circuits of twenty (20) amperes or less may be either circuit breakers, or plug fuses and fuse holders of Type "S", and shall be of the time-delay type. The manufactured home disconnecting means located inside shall be fed from an outside location with a feeder from the main service entrance for such manufactured home. If the supply or feeder from the main service to the disconnecting means located inside does not have a grounding conductor as required by Article 550 of the 2008¹⁴ edition of the National Electrical Code, one shall be installed.
- (2) Inspection shall be both visual and mechanical; switch and receptacle plates and light fixtures will be removed to check conductor connections, insulation of splices, boxes, and general code requirements.
- (3) After the mechanical test and visual inspections have been made, a safety inspection certificate may be issued as determined by the inspector.

Authority: T.C.A. §§ 68-102-113, 68-102-143, 68-102-147, and 68-102-150.

0780-02-01-.16 REPEALED.

Authority: T.C.A. §68-102-113. Administrative History: Original rule filed June 27, 1990; effective August 11, 1990. Repeal filed July 15, 2003; effective September 28, 2003.

0780-02-01-.17 LOCAL ORDINANCES.

No city, county, town, municipal corporation, metropolitan government or political subdivision of this state shall adopt or enforce any ordinance prescribing less stringent electrical standards than those established hereunder as determined by the Division.

Authority: T.C.A. §§ 68-102-113, 68-102-143, and 68-102-150.

(Rule 0780-02-01-.18, continued)

0780-02-01-.18 PERMIT ISSUING AGENTS.

- (1) All individuals, including all business entities, municipalities, and cooperatives, who undertake to issue electrical permits under this chapter must hold a current contract with the Department of Commerce and Insurance, as administered through the Electrical Section of the Division of Fire Prevention.
- (2) State deputy electrical inspectors and their immediate families are ineligible to become issuing agents. Additionally, without prior approval from the Department, no individual or business entity in any way related to or financially associated with any Department official will be allowed to become an issuing agent.

Authority: T.C.A. §§ 68-102-113 and 68-102-143.

0780-02-01-.19 REPEALED.

Authority: T.C.A. §68-102-113. Administrative History: Original rule filed October 15, 1999; effective December 29, 1999. Repeal filed July 15, 2003; effective September 28, 2003.

0780-02-01-.20 LOCAL GOVERNMENT AUTHORIZATION TO PERFORM ELECTRICAL INSPECTIONS.

- (1)
 - (a) Pursuant to T.C.A. § 68-102-143(b)(1), the Commissioner of Commerce and Insurance may authorize a local government to conduct electrical inspections through the local government's appointed deputy inspectors. This inspection authority shall cover all types of electrical installations in accordance with the law, except for state owned or leased properties and Electric Vehicle Supply Equipment (EVSE) which remain under the jurisdiction of the Commissioner. ~~However, authorized local jurisdictions that have adopted the 200814 NEC National Electrical Code or a subsequent code edition and have been trained on the installation of EVSEs by the Division of Fire Prevention of the Department of Commerce and Insurance will be allowed to inspect such installations.~~
 - (b) Deputy inspectors appointed in such a manner are authorized to inspect electrical installations upon receipt of a request from the owner of the property or from any person, association or corporation supplying electrical energy to the installations, or from municipal governing bodies, or from the county legislative body of the county in which the installations are located and the inspectors for their compensation are authorized to charge for and received a fee for each inspection.
 - (c) If a conflict arises between the state fire marshal and the local government relative to the application or interpretation of the same or substantially identical electrical safety standards, then the determination of the state fire marshal shall supersede the conflicting application or interpretation by the local government.
 - (d) This rule sets forth the criteria by which local governments may seek authorization to perform electrical inspections and procedures by which the Commissioner, or designee, may review such authorization.
- (2) Initial Authorization.

- (a) Prior to being authorized to perform electrical inspections, the local government, through the county executive, the county commission, the mayor or the city council, shall make a written request to the state fire marshal.
 - (b) The request shall be completed on a form approved by the state fire marshal and shall contain the following information:
 - 1. The title(s) and edition(s) of the code(s) that will be adopted and enforced;
 - 2. The number and types of inspections of each installation (final, rough-in, temporary, HVAC, service release, re-inspect) that will be conducted;
 - 3. A detailed description of the permit issuance and record-keeping process for all inspection activities;
 - 4. The names of all persons who are employed by the local government to perform electrical inspections and who have successfully completed the respective certification examinations of the International Association of Electrical Inspectors (IAEI- 1 & 2 Family and Electrical General or Electrical Commercial), the International Code Council (ICC- Residential Electrical Inspector and Commercial Electrical Inspector), or any other certification designations approved by the Commissioner, or designee. All necessary certifications shall be obtained prior to performing electrical inspections.
 - (c) After receipt of the information required in paragraph (2)(b) of this rule, the state fire marshal will schedule a pre-authorization review to take place at the applying local government's office. During this review, the state fire marshal may review any and all records related to the local government's proposed electrical inspection program, including the certification records of persons employed to perform electrical inspections.
 - (d) If after consideration of the information required in paragraph (2)(b) of this rule and after the pre-authorization review the state fire marshal determines that the local government can adequately enforce electrical codes and conduct electrical inspections, the state fire marshal may authorize the local government to conduct electrical inspections.
- (3) The local government's adopted electrical code publication shall be current within seven (7) years of the date of the latest edition thereof, unless otherwise approved by the state fire marshal.
- (4) Review of Local Government Authorization.
- (a) For any local government that was authorized to conduct electrical inspections before January 1, 2005, the state fire marshal will conduct a review as soon as practicable of the local government's authorization to conduct electrical inspections to determine whether the local government is adequately enforcing the adopted electrical codes and is properly performing inspections.
 - (b) For any local government that is authorized to conduct electrical inspections on or after January 1, 2005, the state fire marshal will conduct a review of the local government's authorization to conduct electrical inspections to determine whether the local government is adequately enforcing the adopted electrical codes, is properly performing inspections and is otherwise in compliance with the information originally submitted to the state fire marshal for purposes of gaining authorization to perform

electrical inspections. The review provided by this paragraph shall take place at least once every three (3) years.

- (c) Each local government that is reviewed pursuant to this paragraph will be notified of the review in writing. When a local government is subject to the review provided by this paragraph, the local government shall submit the information required for initial authorization by paragraph (2)(b) of this rule on a form provided by the state fire marshal within thirty (30) days of its receipt of the form.
- (d) As part of the review, the state fire marshal may also conduct an on-site visit to the local government to review the electrical permit and inspection process.
- (e) The state fire marshal may request any other documentation it deems necessary for the local government to evidence compliance with the requirements for initial authorization set forth in paragraph (2)(b) of this rule.
- (f) Report of Review.
 - 1. After conclusion of the review, the state fire marshal will notify the local government in writing whether there are any area(s) in which the local government is not adequately enforcing the adopted electrical codes or properly performing inspections.
 - 2. If the local government is not adequately enforcing the adopted electrical codes or properly performing inspections, the notification will contain recommended corrective action, and the local government will be directed to submit a plan of corrective action to the state fire marshal within thirty (30) days after its receipt of the notification. The plan of corrective action shall be sufficiently detailed so as to ensure compliance with all requirements for initial authorization.
 - 3. Within thirty (30) days after receipt of the local government's plan of corrective action, the state fire marshal shall either approve or disapprove the plan. If the plan is approved, the state fire marshal may conduct periodic follow-up reviews to ensure continued compliance with the plan. If the plan is not approved, the state fire marshal may remove the local government's authorization to conduct electrical inspections.

Authority: T.C.A. §§ 68-102-113 and 68-102-143(b)(1).

0780-02-01-21 INSPECTION FEES.

The inspection fee for each inspection for services shall not exceed the following:

Final Inspection	Fee
0-200 ampere capacity	\$2735.00
201-400 ampere capacity	\$40.00
401-600 ampere capacity	\$50.00
601-1000 ampere capacity	\$90.00
1,001 ampere capacity and above ("Nonstandard permit")	Fee is negotiable; however, any such fee shall be subject to review and approval by the commissioner, or designee.

Rough-in Inspection	
0-1,000 ampere capacity	\$2735.00
1,001 ampere capacity and above	\$35.00
Re-inspection	
Based on rejection of 0-1,000 ampere capacity	\$2735.00
Based on rejection of 1,001 ampere capacity and above	\$35.00
Inspection of a dwelling unit's heating and/or cooling system (e.g. HVAC)	\$2735.00
Consultation Inspection (optional/available upon request)	\$50.00
Service Release Inspection (valid for 45 days)	Fee is based on ampere capacity of service.
Inspection of Boat Docks and Marinas	Fee is negotiable based upon the number of subpanels, panels and the ampere capacity of service; however, any such fee shall be subject to review and approval by the commissioner, or designee.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2) 68-102-602, and 68-102-603.

0780-02-01-.22 BOAT DOCKS AND MARINAS.

- (1) Safety inspections of boat docks and marinas shall include, but are not limited to, a review of all sources of electrical supply, including ship-to-shore power pedestals, submergible pumps, and sewage pump-out facilities, that could result in unsafe electrical current in the water for the purpose of ensuring compliance with the standards for maintenance of electrical wiring and equipment that were applicable to the marina at the time of installation.
- (2) (a) In the event that a deficiency is found during a safety inspection, any subsequent inspection required for the inspection of repairs made to address such deficiency shall be conducted by a deputy electrical inspector commissioned under T.C.A. § 68-102-143, and in accordance with T.C.A. § 68-102-143 and Tenn. Comp. R. & Regs. 0780-02-01.
- (b) The permit fee for inspection of boat docks and marinas are negotiable based upon the number of subpanels, panels and the ampere capacity of service; however, any such fee shall be subject to review and approval by the Commissioner of Commerce and Insurance, or designee.
- (3) Any main overcurrent protective device, installed or replaced on or after April 1, 2015, that feeds a marina shall have ground-fault protection not exceeding one hundred milliamperes (100 mA). Ground-fault protection not exceeding one hundred milliamperes (100 mA) of each individual branch or feeder circuit shall be permitted as a suitable alternative. Each marina operator may determine the devices that it will utilize to achieve the one hundred milliamperes (100 mA) limit that is required herein, including, but not limited to, the use of equipment leakage circuit interrupters or ground fault circuit interrupters.

- (4) Inspections shall be performed in accordance with the adopted electrical code edition effective at the time of installation. If the time of installation cannot be determined, the installation ~~will~~shall be inspected in accordance with the pertinent section related to Marinas and Boatyards, Article 555 in the edition of the National Electrical Code adopted in ruleTenn. Comp. R. & Regs. 0780-02-01-.02, unless otherwise authorized by the Commissioner of Commerce and Insurance, or designee.
- (5) The regulation regarding a maximum of one thousand (1000) volts phase to phase being permitted in yard and pier distribution systems as specified in Article 555.4, Distribution System of the edition of the National Electrical Code adopted in Tenn. Comp. R. & Regs. 0780-02-01-.02 may be exceeded if written documentation is submitted from an engineer licensed in the State of Tennessee approving the additional voltage.

Authority: T.C.A. §§ 68-102-113, 68-102-143(b)(2), 68-102-602, and 68-102-603.

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

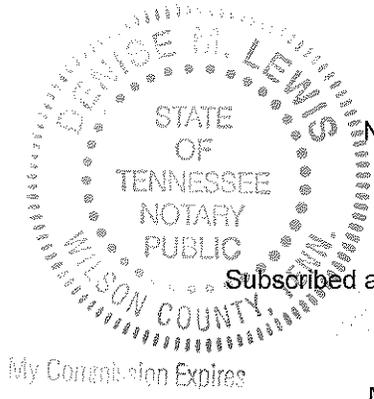
Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of CEI (board/commission/ other authority) on 01/18/2017 (mm/dd/yyyy), 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: 07/28/16

Rulemaking Hearing(s) Conducted on: (add more dates). 09/27/16



Date: 1/18/17

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of the Department of Commerce and Insurance

Subscribed and sworn to before me on: 1/18/17

Notary Public Signature: Denise M Lewis

My commission expires on: 1/15/20

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
3/6/2017
Date

Department of State Use Only

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Filed with the Department of State on: 3/23/17

Effective on: 6/21/17

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Municipal Solid Waste Landfills

STATUTORY AUTHORITY: Not applicable

EFFECTIVE DATES: July 27, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: For any municipal solid waste landfill with a design capacity of less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume, this rulemaking hearing rule would codify an exemption (consistent with past practice) from the requirement to obtain construction and operating permits.

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

A public hearing for the proposed rule was held on November 2, 2016. The Division of Air Pollution Control read one comment into the hearing record during the public hearing.

Comment: After the beginning of the comment period for this proposed rule, the EPA issued revisions to the New Source Performance Standards for municipal solid waste landfills (40 CFR 60 Subpart XXX) and new Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills (40 CFR 60 Subpart Cf). EPA will also establish a federal plan for existing affected sources, in the event that states do not adopt their own plans. We intend to revise the exemption language to cover the new requirements.

Response: The final rule was revised deleting the phrase: "Subpart WWW and paragraph (7) of Rule 1200-03-07-.07" and replacing it with: "Subparts WWW or XXX, or any applicable federal or state plan established pursuant to Section 111(d) of the Clean Air Act," so that the new paragraph (6) of Rule 1200-03-09-.04 shall read as follows:

- (6) Municipal solid waste landfills with a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall satisfy the applicable provisions of 40 CFR 60 Subparts WWW or XXX, or any applicable federal or state plan established pursuant to Section 111(d) of the Clean Air Act, but shall otherwise be exempt from the requirement to obtain a construction or operating permit. This exemption shall not apply to any major stationary source or major modification as defined by paragraph (4) of Rule 1200-03-09-.01 or to any major source as defined by paragraph (11) of Rule 1200-03-09-.02.

There were no other comments received during the public hearing, and there were no comments received from the public during the comment period.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) The 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, or directly benefit from the proposed rule.

The Department identified three active facilities (excluding municipally-owned landfills) that may directly benefit from the proposed rule.

1. Upper Cumberland Landfill
2. ECM of Ridgeley
3. Sevier Solid Waste, Inc.

- (2) The 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.

With respect to small businesses, the Air Pollution Control Board anticipates that there would be no 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.

- (3) A statement of the probable effect on impacted small businesses and consumers.

Because applicable permits have never been issued to any facility that would be covered by this exemption, the Air Pollution Control Board projects that the rule will not impact small businesses and customers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

This rule does not create a burden for small businesses.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rule does not have a direct counterpart in the Code of Federal Regulations and the Air Pollution Control Board is not aware of any state counterparts.

- (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.

This rule benefits small businesses, so exemption of small businesses would have a negative impact.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that these amended rules will have no 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;

For any municipal solid waste landfill with a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume, the rule would codify an exemption (consistent with past practice) from the requirement to obtain construction and operating permits.

- (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;

No federal or state law or regulation mandates this change.

- (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 Department has identified eleven active municipal solid waste landfills (eight municipally owned facilities and three private facilities) that would be affected by this rule change. None of the facilities urged adoption or 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;

The Air Pollution Control Board is not aware of any opinions that directly relate to the rulemaking.

- (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 Air Pollution Control Board projects that there will be no change in state and local government revenue and expenditures as a result of this rule.

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

Travis Blake
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, Tennessee 37243
travis.blake@tn.gov

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

Lucian Geise
Senior Counsel for Legislative Affairs
Office of 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

Office of General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 2nd Floor
Nashville, Tennessee 37243
(615) 532-0108
Lucian.Geise@tn.gov

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

The Tennessee Air Pollution Control Board is not aware of any additional relevant information.

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For Department of State Use Only

Sequence Number: 04-19-17
Rule ID(s): 6518
File Date: 4/28/17
Effective Date: 7/27/17

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:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Travis Blake
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-0617
Email:	travis.blake@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.04	Exemptions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 1200-03-09
Construction and Operating Permits

Amendments

Rule 1200-03-09-.04 Exemptions is amended by adding a new paragraph to read as follows:

- (6) Municipal solid waste landfills with a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall satisfy the applicable provisions of 40 CFR 60 Subparts WWW or XXX, or any applicable federal or state plan established pursuant to Section 111(d) of the Clean Air Act, but shall otherwise be exempt from the requirement to obtain a construction or operating permit. This exemption shall not apply to any major stationary source or major modification as defined by paragraph (4) of Rule 1200-03-09-.01 or to any major source as defined by paragraph (11) of Rule 1200-03-09-.02.

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

* 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)
Dr. Ronne Adkins Commissioner's Designee, Dept. of Environment and Conservation	X				
Dr. John Benitez Licensed Physician with experience in health effects of air pollutants				X	
Karen Cisler Environmental Interests	X				
Dr. Wayne T. Davis Conservation Interests				X	
Stephen Gossett Working for Industry with technical experience	X				
Dr. Shawn A. Hawkins Working in field related to Agriculture or Conservation	X				
Richard Holland Working for Industry with technical experience	X				
Caitlin Roberts Jennings Small Generator of Air Pollution representing Automotive Interests	X				
L. Shawn Lindsey Working in Municipal Government				X	
Dr. Tricia Metts Involved with Institution of Higher Learning on air pollution evaluation and control				X	
Chris Moore Working in management in Private Manufacturing				X	
Amy Spann, PE Registered Professional Engineer				X	
Larry Waters County Mayor	X				
Jimmy West Commissioner's Designee, Dept. of Economic and Community Development	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 11/09/2016, 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: 09/07/16

Rulemaking Hearing(s) Conducted on: (add more dates). 11/02/16

Date: November 9, 2016

Signature: Quincy N. Styke III

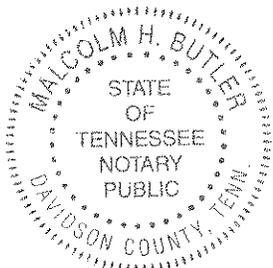
Name of Officer: Quincy N. Styke III

Title of Officer: Acting Technical Secretary

Subscribed and sworn to before me on: November 9, 2016

Notary Public Signature: Malcolm H. Butler

My commission expires on: January 11, 2017



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. Slattery III
Herbert H. Slattery III
Attorney General and Reporter
4/24/2017
Date

Department of State Use Only

Filed with the Department of State on: 4/28/17

Effective on: 7/27/17

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Equalization

DIVISION:

SUBJECT: Appraisal of Parcels with Mineral Reserves

STATUTORY AUTHORITY: None

EFFECTIVE DATES: July 24, 2017 through June 30, 2018

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rulemaking hearing rule outlines acceptable methods for classifying and assessing mineral properties, substantially conforming to existing practice.

NOTE: This rule contains all new language that was not underlined in the redline copy.

Public Hearing Comments

At the public rulemaking hearing on September 26, 2016, and again at the vote on these rules by the Board on November 16, 2016, no persons commented.

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.

Economic Impact Statement (4-5-403)

(1) The 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, or directly benefit from the proposed rule. Agency comments: The rules may impact small and large owners of segregated mineral reserves in Tennessee, although the kind of information sought is comparable to what was being asked of mineral property owners under existing law so no new burden of compliance is anticipated.

(2) The 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. Agency comments: The kind of information sought is comparable to what was being asked of mineral property owners under existing law so no new burden of compliance is anticipated.

(3) A statement of the probable effect on impacted small businesses and consumers. Agency comments: The information sought is comparable to what was being asked of mineral property owners under existing law so no new burden of compliance is anticipated.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business. Agency comments: The information sought is comparable to what was being asked of mineral property owners under existing law so no new burden of compliance is anticipated.

(5) A comparison of the proposed rule with any federal or state counterparts. Agency comments: The Board is informed and believes the information sought is no more burdensome than required by federal or state counterparts.

(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. Agency comments: No consequence attends the owner's failure to provide the information sought except the agency may have to obtain necessary assessment information from general sources or utilize information from past filings, which may have the effect of over-stating or understating a proper assessment.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Agency comments: The information sought will presumably contribute to a more accurate assessment, furthering the public goal of assessing all property for ad valorem taxes on a fair and equitable basis.

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;

These rules outline acceptable methods for classifying and assessing mineral properties, substantially conforming to existing practice.

- (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;

The Board received no comment from public or private individuals or entities regarding adoption of the 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;

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;

None

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

Stephanie Maxwell, Office of Comptroller of the Treasury General Counsel

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

Same

- (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

505 Deaderick St, Ste 1700, Nashville TN 37243-Phone 615-401-7964 stephanie.maxwell@cot.tn.gov

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

Available on request

State

**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: 04-18-17
Rule ID(s): 6917
File Date: 4/25/17
Effective Date: 7/24/17

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:	State Board of Equalization
Division:	
Contact Person:	Betsy Knotts, Deputy Executive Secretary
Address:	312 Rosa L Parks Ave, Ste 900, Nashville, TN
Zip:	37243-1102
Phone:	615-401-7883
Email:	betsy.knotts@cot.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
0600-11	Appraisal of Parcels with Mineral Reserves
Rule Number	Rule Title
0600-11-.01	Purpose
0600-11-.02	Applicability
0600-11-.03	Definitions
0600-11-.04	Classifying Parcels with Mineral Reserves
0600-11-.05	Discovery
0600-11-.06	Valuation and Subclassification of Active Mineral Reserves Generally
0600-11-.07	Valuation of Active Mineral Reserves – Coal
0600-11-.08	Valuation of Active Mineral Reserves – Oil and Gas Wells
0600-11-.09	Valuation of Active Mineral Reserves Other than Coal, Oil or Gas
0600-11-.10	Valuation and Subclassification of Depleted Mineral Reserves
0600-11-.11	Valuation and Subclassification of Inactive Measured Mineral Reserves
0600-11-.12	Valuation and Subclassification of Inactive Indicated Mineral Reserves
0600-11-.13	Questionnaires and Reporting Schedules
0600-11-.14	Maintenance
0600-11-.15	Assessor's Records
0600-11-.16	Effective Date

Substance of proposed rules:

Chapter 0600-11
Appraisal of Parcels with Mineral Reserves

0600-11-.01 PURPOSE

The purpose of these rules is to outline policies and procedures for the appraisal of mineral interests subject to property taxation. These rules replace the Mineral Appraisal Section of the State of Tennessee Assessment Manual approved by the State Board of Equalization in 1972.

Authority: T.C.A. §§ 67-1-305 and 67-5-502(d).

0600-11-.02 APPLICABILITY

These rules apply to parcels of real property classified as having either (1) active mineral reserves; (2) depleted mineral reserves; (3) inactive measured mineral reserves; or (4) inactive indicated mineral reserves. These rules do not apply to severed mineral rights or parcels classified as having minerals not subject to appraisal.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-601(d).

0600-11-.03 DEFINITIONS

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

- (1) "Active mineral reserves" mean those properties where actual production of the minerals being valued has occurred within one (1) year prior to the assessment date.
- (2) "Assessment date" is defined in T.C.A. § 67-5-504(a).
- (3) "Depleted mineral reserves" mean those properties with mineral reserves that have been determined to be depleted by prior extracting operations and that are not mineable and merchantable by current technology.
- (4) "Farm property" is defined as in T.C.A. § 67-5-501(3).
- (5) "Growing crops" is defined as in T.C.A. § 67-5-216(a).
- (6) "Inactive measured mineral reserves" mean those properties that contain presently extractable and merchantable minerals that are not currently being extracted. Reliable evidence must indicate that the minerals could be extracted or used in the manufacture of other products by judicious methods under present economic, technical and legal conditions.
- (7) "Inactive indicated mineral reserves" mean those properties on which no mining, drilling or other reliable evidence establishes the presence of the minerals in quantities or quality suitable for immediate economic development, but reliable geological data supports the assumption of mineral reserves with potential contributory value.
- (8) "Industrial and commercial property" is defined as in T.C.A. § 67-5-501(4).
- (9) "Mineral" means any substance with economic value, whether organic or inorganic, which can be extracted from the earth, including industrial minerals but excluding products of the soil. The term mineral includes, but is not limited to, barite, bauxite, clay, coal, copper, dolomite, dimension stone, feldspar, fluorspar, gold, iron, lead, manganese, marble, natural gas, oil, perlite, phosphate, pyrites, sandstone, shale, silica, silver, strontium, tin, titanium, zinc, and zirconium. The term mineral does not include growing crops.
- (10) "Minerals not subject to appraisal" mean limestone, sand and gravel in accordance with T.C.A. § 67-5-601(d).

- (11) "Operator" means any person responsible for the day-to-day operation of a mine or oil and gas well by reason of contract, lease or operating agreement or any person owning an unleased producing mine or well operated by the owner thereof.
- (12) "Subclass," "subclassified," and "subclassification" mean the classification of real property as public utility property, industrial and commercial property, residential property or farm property as defined in T.C.A. § 67-5-501 and in accordance with T.C.A. § 67-5-801(a).
- (13) "Unit" means the total area incorporated in a unitization agreement providing for a consolidated development and operational plan to recover oil and/or gas from the areas incorporated within the unit.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-601(d).

0600-11-.04 CLASSIFYING PARCELS WITH MINERAL RESERVES

- (1) Properties identified as having mineral reserves shall be classified into one of the following categories:
 - (a) Active Mineral Reserves;
 - (b) Depleted Mineral Reserves;
 - (c) Inactive measured mineral reserves;
 - (d) Inactive indicated mineral reserves; or
 - (e) Minerals not subject to appraisal.
- (2) Factors to be considered in evaluating mineral reserves include inherent mining and drilling hazards, regulatory restrictions, and market conditions.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-601(d).

0600-11-.05 DISCOVERY

- (1) The primary source for discovering parcels with mineral reserves is the mineral interest statement/declaration mineral owners must file with the Assessor in the county in which the interest is located in accordance with T.C.A. § 67-5-804(b).
- (2) The following additional sources are recommended for use whenever possible:
 - (a) permit applications filed with the Tennessee Department of Environment and Conservation;
 - (b) permit applications filed with the federal Office of Surface Mining;
 - (c) severance tax returns filed with the Tennessee Department of Revenue;
 - (d) business license records maintained by county clerks;
 - (e) on-site inspections; and
 - (f) discussions with owners and producers.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-804.

0600-11-06 VALUATION AND SUBCLASSIFICATION OF ACTIVE MINERAL RESERVES GENERALLY

- (1) In most cases, the income approach constitutes the most appropriate method to value mineral reserves due to the inapplicability of the cost approach and the lack of sufficient market data to process a reliable sales comparison approach. In situations where sufficient market data exists, the Assessor should prepare both an income and sales comparison approach and correlate the indications of value in the same manner as when appraising non-mineral properties.
- (2) Typically, the discounted cash flow analysis ("DCF") will be the preferred method when processing an income approach. Special considerations exist when using a DCF, or any other income approach technique, to value mineral reserves. Unlike other types of income-producing properties, minerals are a depleting asset. Additionally, the discount rate used to capitalize net income into an estimate of value may be higher than the discount rate used in other situations due to the higher degree of risk inherent in extracting minerals. Moreover, the reversionary value of a parcel with mineral reserves may be minimal or nonexistent due to the fact that the minerals have been depleted and only wasteland may remain, requiring additional costs for reclamation. Finally, the investor's income stream is dependent upon factors that cannot be controlled as easily as in other settings.
- (3) The DCF measures the present worth of the right to receive a series of cash payments over a given period of time (economic life). The basic elements normally required for this type of appraisal method are the determination of: 1) net annual income based on production history, economic royalty rates and consideration of allowable expenses; 2) remaining economic life of the reserves; and (3) the rate at which the income is discounted to present worth (the discount rate). The projected net annual income is discounted over the remaining economic life to yield an estimate of the present net worth of the active reserve.
- (4) In most cases, the land and buildings in the area permitted for the mining or drilling operations will be subclassified as industrial and commercial property. The remaining portion of the tract will typically be subclassified as farm property unless it is being used for another purpose. In that event, the use of the property will determine the proper subclassification.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-07 VALUATION OF ACTIVE MINERAL RESERVES – COAL

- (1) The Assessor shall value coal reserves by compiling the information necessary to complete the spreadsheet or a facsimile in Appendix A.
- (2) In order to complete the spreadsheet in Appendix A, the Assessor shall utilize the following procedure to the extent practicable:
 - (a) Contact the Office of Surface Mining ("O.S.M"), or other appropriate entity, to obtain the coal production for the permitted area for prior years;
 - (b) Contact the O.S.M., or other appropriate entity, for information concerning: new permits, the Inspectable Units List, current coal producers, permit information, renewed permit list, pending permits, successor list, and listings in the Applicant/Violator System;
 - (c) Contact each coal producer or owner for the royalty rate per the permit;
 - (d) Estimate a discount rate and management allowance utilizing the best available market data;
 - (e) Estimate the economic life of the mine after consideration of the issue date of the permit, the year production began, the total production over the life of the permit and the anticipated production of the life of the mine; and
 - (f) Reduce the indicated value by the appraisal ratio for the tax year and jurisdiction under review.

- (3) Where necessary, such as when market data is limited or unavailable, the Assessor shall utilize appraisal judgment so long as it is reasonably designed to arrive at the market value of the mineral reserves being appraised.
- (4) The Assessor's estimates shall be presumed indicative of market rates and the resulting market value absent evidence from the Taxpayer supporting different assumptions for the particular reserves being appraised. In order to rebut the presumption, the Taxpayer must provide the Assessor with either market data or information specific to the reserves being appraised. Mere criticism of the Assessor's methodology is not sufficient by itself to overcome the presumption of correctness.
- (5) The following example illustrates how Assessors should value a parcel with active mining of coal reserves:

Assume that a coal mine is found to have 50,000 tons of reserves in place. Its production history establishes that annual production is 10,000 tons. This would indicate an economic life of five years ($50,000 \div 10,000 = 5$). Assume an economic royalty rate of \$2.00 per ton, allowable expenses of 10% of gross income and a discount rate of 16%. The following calculation demonstrates how to calculate the present worth of the reserve:

10,000	--	annual production in tons
<u>x 2.00</u>	--	economic royalty in dollars
\$20,000	--	gross annual income
<u>-2,000</u>	--	allowable expenses in dollars
\$18,000	--	net operating income
<u>x 3.274294</u>	--	the present value of the right to receive \$1 per period for five years at a 16% discount rate
\$58,937	--	present net worth of reserve

The above example assumes a level annuity, which would be appropriate for a coal mine where the coal is being mined at a constant rate.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-.08 VALUATION OF ACTIVE MINERAL RESERVES – OIL AND GAS WELLS

- (1) The Assessor shall value oil and gas wells by compiling the information necessary to complete the spreadsheet or a facsimile in Appendix B.
- (2) In order to complete the spreadsheet in Appendix B, the Assessor shall utilize the following procedure to the extent practicable:
 - (a) In order to determine the appropriate integration of separately owned and leased parcels that are unitized into drilling and production units, the Assessor shall send operators an annual schedule or questionnaire to determine the identity, address and percentage of ownership of each parcel comprising the unit from which oil and/or gas is being recovered;
 - (b) Contact the Tennessee Board of Water Quality, Oil and Gas, or other appropriate entity, to obtain the previous year's production for each oil and gas well and the average cost per barrel;
 - (c) Estimate an appropriate discount rate and decline rate for each well by reviewing the best available market data and factors relevant to the individual well being appraised;
 - (d) Update the total production for each well;
 - (e) Prepare separate oil and gas appraisals for each well;

- (f) Reduce the indicated value by the appraisal ratio for the tax year and jurisdiction under review; and
 - (g) Allocate the equalized values for each well between all parcel owners based upon their percentage of ownership.
- (3) Where necessary, such as when market data is limited or unavailable, the Assessor shall utilize appraisal judgment so long as it is reasonably designed to arrive at the market value of the oil and gas wells being appraised.
 - (4) The Assessor's estimates shall be presumed indicative of the market absent evidence from the Taxpayer supporting different assumptions for the particular reserves being appraised. In order to rebut the presumption, the Taxpayer must provide the Assessor with either market data or information specific to the reserves being appraised. Mere criticism of the Assessor's methodology is not sufficient by itself to overcome the presumption of correctness.
 - (5) The following example illustrates how Assessors should value a parcel with active oil and gas reserves:

Assume that an oil well has an economic life of five years, a decline rate of 20%, an initial annual net income of \$5,000, and a discount rate of 16%. The present net worth of the reserve would be calculated as follows:

Present Worth of 1

<u>Year</u>	<u>Net Annual Income</u>		<u>Discount Factor</u>	=	<u>Discounted Value</u>	
1	\$5,000	x	.862069	=	\$4,310.34	
2	\$4,000	x	.743163	=	2,972.65	
3	\$3,200	x	.640658	=	2,050.11	
4	\$2,560	x	.552291	=	1,413.86	
5	\$2,048	x	.476113	=	975.08	
				Present Worth	=	\$11,722.04

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-.09 VALUATION OF ACTIVE MINERAL RESERVES OTHER THAN COAL, OIL OR GAS

Consistent with these rules, the Assessor may utilize whatever appraisal methodology appears most appropriate in a particular situation so long as the methodology is reasonably designed to arrive at the market value of the mineral reserves being appraised.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-.10 VALUATION AND SUBCLASSIFICATION OF DEPLETED MINERAL RESERVES

- (1) Since any remaining mineral reserves have no contributory value, such parcels will normally be subclassified as farm property and valued according to the rural land schedule utilized by the county where the property is located.
- (2) Where extraction of the mineral(s) has damaged the land and reduced its market value, the estimate of market value should be adjusted to reflect the loss in value.
- (3) When a parcel with depleted mineral reserves has been converted to an alternative industrial or commercial use, it will normally be subclassified as industrial and commercial property and valued assuming such a highest and best use.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-11 VALUATION AND SUBCLASSIFICATION OF INACTIVE MEASURED MINERAL RESERVES

Parcels falling within this classification shall be valued and subclassified in the same manner as parcels with active mineral reserves.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-12 VALUATION AND SUBCLASSIFICATION OF INACTIVE INDICATED MINERAL RESERVES

- (1) Mineral reserves that cannot be reliably measured have no contributory value for property tax purposes.
- (2) Parcels with inactive indicated mineral reserves should be valued and subclassified without consideration of any mineral reserves.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-801.

0600-11-13 QUESTIONNAIRES AND REPORTING SCHEDULES

- (1) When necessary, the Assessor may send operators and/or other holders of mineral interests annual questionnaires and/or reporting schedules designed to obtain information necessary to identify and appraise mineral reserves.
- (2) In the event an operator or holder of a mineral interest fails to complete and return a questionnaire or reporting schedule after a reasonable opportunity to do so, the Assessor may either (a) assume the prior year's operating history is representative of future years' production; or (b) make any necessary estimates based upon available market data and the operating history of similar mines and/or wells.
- (3) The Assessor's estimates shall be presumed indicative of market rates and the resulting market value absent evidence from the Taxpayer supporting different assumptions for the particular reserves being appraised. In order to rebut the presumption, the Taxpayer must provide the information requested in the questionnaire and/or reporting schedule that was not completed and returned. Mere criticism of the Assessor's estimates is not sufficient by itself to overcome the presumption of correctness.

Authority: T.C.A. §§ 67-1-305 and 67-5-303.

0600-11-14 MAINTENANCE

Unlike other types of real property, mineral properties are subject to depletion, which may cause the value of a parcel to diminish each year as reserves are extracted. Conversely, it is also possible for the mineral value of a parcel to increase due to market conditions, technological advances, and the discovery of additional reserves. Such factors necessitate the annual review of mineral assessments by Assessors.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-504(a).

0600-11-15 ASSESSOR'S RECORDS

The Assessor shall note on the property record card all instances when mineral reserves have been assessed. Although no particular format must be used due to the various assessment systems employed throughout Tennessee, mineral assessments should be readily identifiable by utilization of a special interest card, property identifier, or the equivalent.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d) and 67-5-804.

0600-11-16 EFFECTIVE DATE

After this chapter takes effect, these rules shall apply to the tax period beginning January 1, 2017 and all subsequent tax periods.

APPENDIX A

Sample spreadsheet for valuing Coal Reserves as of January 1, 2016
 Tax Year _____ X- County _____

MAP/PCL	PERMIT#	Permit Type	Issue Date	Expiration Date

Surface Owner-- _____
 Mineral Owner-- _____

NOTES

Mine Name _____

	2012	2013	2014	2015	Total 4yr Production	4yr Average
Tonnage						
Royalty	\$0.00	\$0.00	\$0.00	\$0.00	Royalty	\$0.00
Management	\$0.00000	\$0.00000	\$0.00000	\$0.00000	Management	\$0.00000
Net Royalty	\$0.00000	\$0.00000	\$0.00000	\$0.00000	Net Royalty	\$0.00000
Net Income	\$0.00	\$0.00	\$0.00	\$0.00		Royalty Income

4 Year Average
 Net Income

71
 Income Discounted @

Discount Rate 0% Economic Life 5

Sales Ratio 1.0000

Final Value Rounded With Sales Ratio Applied

2016 Value	
Tonnage	0
Mine Type	
Permit Acres	
Permit Anticipated Annual Production	
2016	\$0
Permit Anticipated Production Over Life of Mine	
2016 VALUE	\$0
Permit Anticipated Life of Mine	
Year of Projection	
First Yr and Quarter Production	
	\$0

APPENDIX B

Sample spreadsheet for valuing Oil and Gas reserves as of January 1, 2016
OIL AND GAS VALUATION WORKSHEET

MAP	PARCEL	PI	SI	TAX YEAR
		M		2016
OWNER				
ADDRESS				

COUNTY LEASE# _____ COUNTY# _____

PERMIT# _____

step 1- change barrel cost, discount rate, decline rate, and current ratio (all in bold red) to reflect current market conditions.
 step 2- save
 step 3- key in production to achieve present value
 step 4- key in i.d. address, lease and permit# and print if desired

owner royalty rate (1/8) 0.125
 mcf or barrel cost **\$0.00**
 barrel income (barrel cost x .1250) \$0.000

ownership	production	bbl income	income
100%	0.00	\$0.00	\$0.00
1/4%	0.00	\$0.00	\$0.00
3/4%	0.00	\$0.00	\$0.00
1/2%	0.00	\$0.00	\$0.00
1/3%	0.00	\$0.00	\$0.00
2/3%	0.00	\$0.00	\$0.00
Other %	0.1290	\$0.00	\$0.00

year	total production	income	discount	discount value	total income
1	0.00	\$0.00	#N/A	#N/A	\$0.00
2	0.00	\$0.00	#N/A	#N/A	\$0.00
3	0.00	\$0.00	#N/A	#N/A	\$0.00
4	0.00	\$0.00	#N/A	#N/A	\$0.00
5	0.00	\$0.00	#N/A	#N/A	\$0.00

note: discount factor based on column four of Elwood table at **0%**
 economic life = 5 years
 decline rate = **0%** per year

2016 TAX YEAR

GAS= \$0.00
 OIL= \$0.00

current ratio **1.0000** PRESENT VALUE **#N/A**

keyed to card at 40% assessment

Authority: T.C.A. §§ 67-1-305 and 67-5-504(a).

* 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)
Bennett	X				
Burchett	X				
Hargett	X				
Lillard	X				
Roberts	X				
Tarwater	X				
Wilson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 11/16/16 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: 8/9/2016

Rulemaking Hearing(s) Conducted on: (add more dates). 9/26/16

Date: 13th March 2017

Signature: *Betsy Knotts*

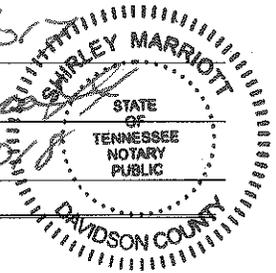
Name of Officer: Betsy Knotts

Title of Officer: Deputy Executive Secretary, SBOE

Subscribed and sworn to before me on: 13th March 2017

Notary Public Signature: *Shirley Marriott*

My commission expires on: 08 May 2018



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.

Chapter Number	Chapter Title
0600-11	Appraisal of Parcels with Mineral Reserves
Rule Number	Rule Title
0600-11-.01	Purpose
0600-11-.02	Applicability
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0600-11-.13	Questionnaires and Reporting Schedules
0600-11-.14	Maintenance
0600-11-.15	Assessor's Records
0600-11-.16	Effective Date


 Herbert H. Slatery III
 Attorney General and Reporter
 3/20/2017
 Date

Department of State Use Only

Filed with the Department of State on: 4/25/17

Effective on: 7/24/17


 Tre Hargett
 Secretary of State

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 PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Financial Institutions

DIVISION: Administrative

SUBJECT: Regulations Pertaining to Other Real Estate

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-5-101 et seq., 45-1-107(h), and 45-2-607(b)(2), and Public Chapter 233 of the Acts of 2013.

EFFECTIVE DATES: July 12, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Public Chapter 233 of the Acts of 2013, effective April 19, 2013, amended the Tennessee Banking Act, specifically T.C.A. § 45-2-607(b)(2), by setting forth the procedures for state banks to dispose of real property acquired in satisfaction of a loan. Rule 0180-14-.01 defines 'other real estate owned' as real property acquired by a bank in satisfaction of a loan and Rule 0180-14-.02 sets forth the procedures for disposition of other real estate. Public Chapter 233 incorporated into T.C.A. § 45-2-607(b)(2) certain language from Rule 0180-14-.02 pertaining to disposition of other real estate along with other substantive amendments. As a result, Public Chapter 233 rendered each provision of Chapter 0180-14, Rule 0180-14-.01 and Rule 0180-14-.02 ineffective and unnecessary.

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.

The repeal of Chapter 0180-14, Rule 0180-14-.01 and Rule 0180-14-.02 will not result in any change to the regulated activities of state-chartered banks and savings banks.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The repeal of Chapter 0180-14, Rule 0180-14-.01 and Rule 0180-14-.02 will not 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;

Public Chapter 233 of the Acts of 2013, effective April 19, 2013, amended the Tennessee Banking Act, specifically T.C.A. § 45-2-607(b)(2), by setting forth the procedures for state banks to dispose of real property acquired in satisfaction of a loan. Rule 0180-14-.01 defines 'other real estate owned' as real property acquired by a bank in satisfaction of a loan and Rule 0180-14-.02 sets forth the procedures for disposition of other real estate. Public Chapter 233 incorporated into T.C.A. § 45-2-607(b)(2) certain language from Rule 0180-14-.02 pertaining to disposition of other real estate along with other substantive amendments. As a result, Public Chapter 233 rendered each provision of Chapter 0180-14, Rule 0180-14-.01 and Rule 0180-14-.02 ineffective and unnecessary.

- (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. §§ 4-5-101 et seq., Uniform Administrative Procedures Act (UAPA), establishes provisions for rulemaking for Tennessee agencies; T.C.A. § 45-1-107(h) grants the commissioner of the Department of Financial Institutions power to enact reasonable substantive and procedural rules to carry out the purposes of any and all chapters within the commissioner's regulatory authority as conferred by law. Public Chapter 233 of the Acts of 2013 provided in § 2, that the Department is authorized to promulgate rules and regulations in accordance with UAPA or to issue departmental bulletins in lieu of such regulations, to implement the provisions of the act, which amended subdivision (b)(2) of T.C.A. § 45-2-607. On June 24, 2015, the Department published Bulletin B-15-2 advising state chartered banks about the effect of Public Chapter 233 of the Acts of 2013 on T.C.A. § 45-2-607(b)(2).

- (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;

Repeal of this chapter and these rules will directly affect state-chartered banks. However, these institutions are not likely to oppose the repeal of this rule because the repeal will not impact their regulated activities. On June 24, 2015, the Department published Bulletin B-15-2, pursuant to its authority under § 2 of Public Chapter 233 of the Acts of 2013. The Bulletin advised state-chartered banks and savings banks that Public Chapter 233 rendered Chapter 0180-14 ineffective and that the Department would likely repeal Chapter 0180-14 in its entirety. State-chartered banks are not likely to reject this repeal.

- (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 attorney general opinions that directly relate to this rule.

- (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;

Chapter 0180-14 did not generate any fee income from state-chartered banks under the Department's supervision. Therefore, the Department estimates that there will be no increase or decrease in state government revenues and expenditures resulting from the repeal of this rule.

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

Philip Ruffin, Bank Financial Analyst, Tennessee Department of Financial Institutions;
Denise Ennis Cole, Deputy General Counsel, Tennessee Department of Financial Institutions

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

Philip Ruffin, Bank Financial Analyst, Tennessee Department of Financial Institutions;
Denise Ennis Cole, Deputy General Counsel, Tennessee Department of Financial Institutions

(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

Philip Ruffin, Bank Financial Analyst
Tennessee Department of Financial Institutions
312 Rosa L. Parks Avenue, 26th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: (615)741-4791
E-mail: Philip.Ruffin@tn.gov

Denise Ennis Cole, Deputy General Counsel
Tennessee Department of Financial Institutions
312 Rosa L. Parks Avenue, 26th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: (615)532-1028
E-mail: Denise.E.Cole@tn.gov

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

None

**Department of State
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For Department of State Use Only

Sequence Number: 04-09-17
Rule ID(s): 6509
File Date: 4/13/17
Effective Date: 7/12/17

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 Financial Institutions
Division:	Administrative Division
Contact Person:	Denise Ennis Cole, Deputy General Counsel
Address:	312 Rosa Parks Avenue 26th Floor Snodgrass/Tennessee Tower
Zip:	37243
Phone:	615-532-1028
Email:	denise.e.cole@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
0180-14	Regulations Pertaining to Other Real Estate
Rule Number	Rule Title
0180-14-.01	"Other Real Estate Owned" Defined
0180-14-.02	Procedures for Disposition of Other Real Estate

Chapter Number	Chapter Title
Rule Number	Rule Title

**RULES
OF THE
TENNESSEE DEPARTMENT OF FINANCIAL INSTITUTIONS**

**CHAPTER 0180-14
REGULATIONS PERTAINING TO OTHER REAL ESTATE**

TABLE OF CONTENTS

0180-14-.01. "Other Real Estate Owned" Defined	0180-14-.02. Procedures for Disposition of Other Real Estate
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0180-14-.01. "OTHER REAL ESTATE OWNED" DEFINED.

- (1) "Other real estate owned" is real estate acquired by a state bank:
- (a) Through purchase at sales under judgments, decrees, or mortgages where the property was security for debts previously contracted;
 - (b) Through conveyance in satisfaction of debts previously contracted; or
 - (c) Through purchases to secure debts previously contracted.

Authority: T.C.A. §§ 45-1-107 and 45-2-607(b)(2). Administrative History: Original rule filed April 29, 1985; effective July 14, 1985.

0180-14-.02. PROCEDURES FOR DISPOSITION OF OTHER REAL ESTATE.

- (1) Other real estate owned by a state bank shall be sold within five (5) years of its acquisition or such longer period as the Commissioner may allow.
- (2) Upon written request by the bank the Commissioner may grant an extended period, up to an additional five (5) years, in which to sell the other real estate.
- (3) If the Commissioner grants an extended period, the bank in reporting its financial status to the department, shall write-off twenty percent (20%) of the appraised value of the other real estate each year it is held until the other real estate is either sold or the maximum five (5) year period has elapsed. In extraordinary circumstances, the Commissioner may reduce the percentage a bank shall write-off other real estate and/or may extend the period in which the other real estate may be held.
- (4) Other real estate which has been written off but not disposed of shall maintained on the bank's books at some nominal value (e.g. \$1.00).
- (5) If the bank's Board of Directors deems the other real estate owned to be a prudent investment for income and/or appreciation for the bank, the Board may take action to maintain the other real estate on the bank's books as an investment in real property, pursuant to T.C.A. § 45-2-607(a)(9). Such action shall be reflected in the minutes of the Board of Directors. The balance carried may not exceed the appraised value of the real estate at any time. Any amount in excess of the current appraised value of the real estate shall be immediately charged-off the bank's books.
- (6) The bank must obtain annually from an independent, qualified appraiser a current appraisal of fair market value for each parcel of other real estate owned and for each parcel of investment real estate. The bank has thirty (30) days from the date the parcel is acquired by

(Rule 0180-14-.02, continued)

~~the Bank as other real estate owned, or from the date on which the bank legally acquires real estate for investment purposes, to obtain this appraisal. Within twelve (12) months of the first appraisal required under this rule, and every twelve (12) months thereafter for as long as the bank owns the real estate, another independent appraisal or a written update must be obtained which confirms the current fair market value.~~

~~_____ Banks are required to obtain appraisals on all parcels where Book Value exceeds one-half of one percent ($\frac{1}{2}$ of 1%) of Total Equity Capital. Any Bank whose one-half of one percent ($\frac{1}{2}$ of 1%) of Total Equity Capital is less than \$25,000, shall be required to obtain appraisals on parcels whose book value is \$25,000 or greater; provided, however, that any Bank whose one-half of one percent ($\frac{1}{2}$ of 1%) of Total Equity Capital is greater than \$150,000, shall be required to obtain appraisals on parcels whose book value is \$150,000 or greater. For the purpose of this rule, a bank's Total Equity Capital is defined as the total of its Capital Stock, Surplus, and Undivided Profits.~~

Authority: T.C.A. §§ 45-1-107 and 45-2-607(b)(2). *Administrative History:* Original rule filed April 29, 1985; effective July 14, 1985. Amendment filed August 29, 1989; effective November 29, 1989.

* 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)
Not applicable					

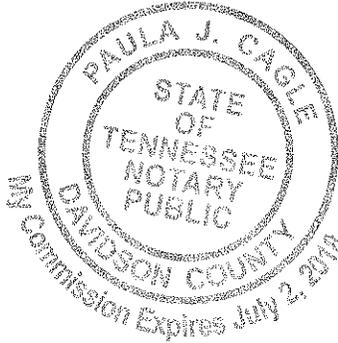
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner of the Tennessee Department of Financial Institutions on 03/24/2017, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, 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: 3/24/17

Signature: Greg Gonzales

Name of Officer: Greg Gonzales

Title of Officer: Commissioner



Subscribed and sworn to before me on: 3/24/17

Notary Public Signature: Paula J. Cagle

My commission expires on: July 2, 2018

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

4/7/2017
Date

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Filed with the Department of State on: 4/13/17

Effective on: 7/12/17

Tre Hargett
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Podiatric Medical Examiners

DIVISION:

SUBJECT: General Rules Governing Fees for Orthotists, Prosthetists, and Pedorthists

STATUTORY AUTHORITY: Not applicable

EFFECTIVE DATES: July 23, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The amendment to Rule 1155-02-.06 [Fees] reduces the biennial renewal fee from three hundred and fifty dollars (\$350.00) to two hundred and seventy-five dollars (\$275.00).

The amendment to Rule 1155-04-.09 [Fees] reduces the biennial renewal fee from two hundred dollars (\$200.00) to one hundred and sixty dollars (\$160.00).

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no public comments, either written or oral.

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.

This rule amendment does not overlap, duplicate, or conflict with other federal, state, and local government rules.

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

This rule amendment is established with clarity, conciseness, and lack of ambiguity.

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

This rule amendment does not establish any new compliance or reporting requirements.

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

This rule amendment does not establish any new schedules or deadlines.

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

This rule amendment does not establish any new compliance or reporting requirements.

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

This rule amendment does not establish performance standards for small businesses as opposed to design or operational standards required for the proposed rule.

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

This rule amendment does not create unnecessary barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Board of Podiatric Medical Examiners

Rulemaking hearing date: February 8, 2017

- 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:**

These rule amendments will affect all licensees of the Board of Podiatric Medical Examiners. These licensees will benefit from the fee reductions.

- 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:**

These proposed rule amendments should not affect reporting or recordkeeping and do not involve administrative costs. The proposed rules reduce existing fee requirements and as such, do not require reporting, recordkeeping, or other administrative costs in order to comply with the proposed rule change.

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

The Board does not anticipate that there will be any adverse impacts to small businesses as small businesses could benefit from the fee reduction. These proposed rule amendments should not have any impact on consumers.

- 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 methods of achieving the purpose and/or objectives of the proposed rule amendment.

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

Federal: None.

State: Many boards, currently operating at a surplus, are reducing some licensure fees.

- 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.**

These proposed rule amendments do not provide exemptions for 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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a 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 amendment to Rule 1155-02-.06 [Fees] reduces the biennial renewal fee from three hundred and fifty dollars (\$350.00) to two hundred and seventy-five dollars (\$275.00).

The rule amendment to Rule 1155-04-.09 [Fees] reduces the biennial renewal fee from two hundred dollars (\$200.00) to one hundred and sixty dollars (\$160.00).

- (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;

These rule amendments will affect all licensees of the Board of Podiatric Medical Examiners

- (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;

These amendments should not result in any increase or decrease in state or local government revenues or expenditures.

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

Andrea Huddleston, Chief 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;

Andrea Huddleston, Chief 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, Andrea.Huddleston@tn.gov.

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

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Sequence Number: 04-17-17
Rule ID(s): 6515-6516
File Date: 4/24/17
Effective Date: 7/23/17

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: Board of Podiatric Medical Examiners
Division:
Contact Person: Andrea Huddleston, Chief Deputy General Counsel
Address: 665 Mainstream Drive, Nashville, Tennessee
Zip: 37243
Phone: (615) 741-1611
Email: Andrea.Huddleston@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
1155-02	General Rules and Regulations Governing the Practice of Podiatry
Rule Number	Rule Title
1155-02-.06	Fees

Chapter Number	Chapter Title
1155-04	General Rules Governing Orthotists, Prosthetists, and Pedorthists
Rule Number	Rule Title
1155-04-.09	Fees

(Rule 1155-02-.05, continued)

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, 63-3-109, 63-3-110, 63-3-111, 63-3-114, and 63-3-119.
Administrative History: Original rule filed March 7, 1989; effective April 21, 1989. (Formerly 1155-02-.04) Amendment filed October 3, 1990; effective November 17, 1990. Repeal and new rule filed November 10, 1998; effective January 14, 1999. Amendment filed May 5, 2006; effective July 19, 2006. Amendment filed January 20, 2012; effective April 19, 2012.

1155-02-.06 FEES.

- (1) The fees are as follows:
 - (a) Academic License fee - A non-refundable fee to be paid by all applicants for an academic license. This fee pays for licensure during the postgraduate training period and the initial period of full licensure.
 - (b) Application fee - A non-refundable fee to be paid by all applicants for licensure except applicants for an academic license, and must be paid each time an application for licensure is filed.
 - (c) Late Renewal fee - A non-refundable fee to be paid when an individual fails to timely renew a license.
 - (d) Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reactivate a retired or lapsed license.
 - (e) Replacement license fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "artistically designed" license.
 - (f) State Regulatory fee - To be paid by all individuals at the time of application and with all renewal applications.
- (2) All fees shall be established by the Board. Fees may be reviewed and changed at the discretion of the Board.
- (3) All fees must be submitted to the board's administrative office by certified, personal check or money order. Checks or money orders are to be made payable to the Board of Registration in Podiatry.

(4) Fee Schedule:	Amount
(a) Academic License	\$440.00
(b) Application	\$440.00
(c) Renewal (biennial)	\$275.00 \$350.00
(d) Late Renewal	\$150.00
(e) Replacement License	\$ 25.00
(f) State Regulatory (biennial)	\$ 10.00

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-103, 63-1-107, 63-3-106, 63-3-106(1), 63-3-109, 63-3-111, 63-3-112, 63-3-114, 63-3-115, and 63-3-116. **Administrative History:** Original rule filed March 7, 1989; effective April 21, 1989. (Formerly 1155-02-.05) Amendment filed October 3, 1990; effective

(Rule 1155-02-.06, continued)

November 17, 1990. Repeal and new rule filed November 10, 1998; effective January 14, 1999. Amendment filed December 13, 2000; effective February 26, 2001. Amendment filed December 16, 2002; effective March 1, 2003. Amendment filed August 25, 2009; effective November 23, 2009.

1155-02-.07 APPLICATION REVIEW, APPROVAL, DENIAL, INTERVIEWS. This rule determines the procedure the Board shall use to make decisions for applicants seeking to practice podiatry pursuant to this chapter and for applicants seeking to operate x-ray equipment for diagnostic purposes in podiatrists' offices pursuant to Chapter 1155-03.

- (1) An application packet shall be requested from the Board's administrative office.
- (2) Review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator.
- (3) If an application is incomplete when received in the Board's administrative office, a deficiency letter will be sent to the applicant notifying him of the deficiency. The requested information must be received in the Board's administrative office on or before the sixtieth (60th) day after the applicant's receipt of the notification.
 - (a) Such notification shall be sent certified mail, return receipt requested, from the Board's administrative office.
 - (b) If the requested information is not received on or before the sixtieth (60th) day prior to the examination, the application file shall become inactive and the applicant notified. No further board action will take place until the application is completed pursuant to the rules governing the application process.
- (4) An individual who has a complete application, application fees, and all supporting documents on file in the Board's administrative office at least sixty (60) days prior to the examination date will be scheduled and notified to take the examination.
- (5) If a completed application has been denied and ratified as such by the Board or its designee, the action shall become final and the following shall occur:
 - (a) A notification of the denial shall be sent by the Board's administrative office by certified mail, return receipt requested. Specific reasons for denial will be stated, such as incomplete information, unofficial records, examination failure, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial.
 - (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - (c) An applicant has a right to a contested case hearing only if the licensure denial is based on subjective or discretionary criteria.
 - (d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if after review and attempted resolution by the Board's administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the Board within thirty (30) days of the receipt of the notice of denial from the Board.

(Rule 1155-04-.08, continued)

- (h) Applicants who fail to successfully complete the jurisprudence examination must continue to retake the examination until it has been successfully completed before the application will be deemed complete and presented to the Board for consideration.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, 63-3-202, 63-3-203, and 63-3-205. **Administrative History:** Original rule filed July 13, 2006; effective September 26, 2006.

1155-04-.09 FEES. All fees except the State Regulatory fee are non-refundable.

(1) Application	\$300.00
(2) Renewal (biennial)	\$160.00 \$200.00
(3) Late Renewal	\$100.00
(4) Reinstatement	\$300.00
(5) Duplicate or Replacement License	\$25.00
(6) Continuing Education Course Accreditation	\$50.00
(7) State Regulatory (biennial)	\$10.00

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-3-106, 63-3-106(1), 63-3-202, 63-3-203, and 63-3-205. **Administrative History:** Original rule filed July 13, 2006; effective September 26, 2006. Amendment filed August 25, 2009; effective November 23, 2009.

1155-04-.10 RENEWAL OF LICENSURE.

- (1) The due date for renewal is the last day of the month in which a licensee's birthday falls pursuant to the Division of Health Related Board's biennial birthdate renewal system, which is the expiration date shown on the licensee's renewal certificate.
- (2) Methods of Renewal
- (a) Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:
- www.tennessee.gov*
- (b) Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.
- (3) A license issued pursuant to these rules is renewable by the expiration date. To be eligible for renewal an individual must submit to the Division of Health Related Boards on or before the expiration date the following:
- (a) A completed renewal application form; and
- (b) The renewal and state regulatory fees as provided in Rule 1155-04-.09.

* 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)
David J. Sables, D.P.M.	X				
Karl M. Fillauer, C.P.O.	X				
Sheila Schuler, D.P.M.	X				
Paul Somers, Jr. D.P.M.	X				
Tyrone T. Davis, D.P.M.	X				
Martha Kay Oglesby	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Podiatric Medical Examiners (board/commission/ other authority) on 02/08/2017 (mm/dd/yyyy), 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: 12/01/16 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 02/08/17 (mm/dd/yy)

Date: 2-8-17

Signature: _____

Name of Officer: Andrea Huddleston

Chief Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 2-8-17

Notary Public Signature: Suzanne Mechkowski

My commission expires on: APRIL 19, 2017



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
4/17/2017
 Date

Department of State Use Only

Filed with the Department of State on: 4/24/17

Effective on: 7/23/17


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, Construction, and Agriculture

STATUTORY AUTHORITY: 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 Tennessee Code Annotated, Section 50-3-201.

EFFECTIVE DATES: July 23, 2017 through June 30, 2018

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.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

An economic impact statement regarding the amendments in this rule proposal is not required under the provisions of the Regulatory Flexibility Act of 2007. As stated in Section 6 of Public Chapter 464, "This part shall not apply to rules that are adopted on an emergency or public necessity basis under Title 4, Chapter 5, Part 2, that are federally mandated, or that substantially codify existing state or federal law." 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 Tennessee Occupational Safety and Health State 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. The plan specifies that the state of Tennessee will adopt the federal standards or an equivalent state requirement within six (6) months of the standard's promulgation by federal OSHA. In addition, T.C.A. §50-3-201 authorizes the Commissioner of Labor and Workforce Development to adopt either state or federal occupational safety and health standards.

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://state.tn.us/sos/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.

- (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;

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;

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

Larry Hunt, Manager, Standards & Procedures, 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
email: larry.hunt@tn.gov

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

**Department of State
Division of Publications**

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Nashville, TN 37243
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Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 04-16-17
Rule ID(s): 6512-6514
File Date: 4/24/17
Effective Date: 7/23/17

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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
Email:	Larry.Hunt@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 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
0800-01-06	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

Proposed Amendments with Changes Red-Lined

Chapter 0800-01-01

Rule 0800-01-01-.06 Amended

Paragraph (2) of Rule 0800-01-01-.06 Adoption and Citation of Federal Standards is amended by changing the date from "February 1, 2017" to "July 1, 2017".

Existing Rule:

- (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 ~~February 1, 2017~~ except as provided in Rule 0800-01-01-.07 of this chapter.

Proposed Amended Rule:

- (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 July 1, 2017 except as provided in Rule 0800-01-01-.07 of this chapter.

Authority: T.C.A. §§ 4-3-1411 and 50-3-201.

Chapter 0800-01-06

Rule 0800-01-06-.02 Amended

Paragraph (2) of Rule 0800-01-06-.02 Adoption and Citation of Federal Standards is amended by changing the date from "January 1, 2017" to "July 1, 2017".

Existing Rule:

- (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, 2017~~ except as provided in Rule 0800-01-06-.03 of this chapter.

Proposed Amended Rule:

- (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 July 1, 2017 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.

Chapter 0800-01-07

Rule 0800-01-07-.01 Amended

Paragraph (2) of Rule 0800-01-07-.01 Adoption and Citation of Federal Standards is amended by changing the date from "January 1, 2017" to "July 1, 2017".

Existing Rule:

- (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, 2017~~ except as provided in Rule 0800-01-07-.02 of this chapter.

Proposed Amended Rule:

- (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 July 1, 2017 except as provided in Rule 0800-01-07-.02 of this chapter.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

Rule 0800-01-07-.02 Amended

Paragraph (1) of Rule 0800-01-07-.02 Exceptions to Adoption of Federal Standards in 29 CFR Part 1928 is amended by changing the date from "January 1, 2017" to "July 1, 2017".

Existing Rule:

- (1) As of ~~January 1, 2017~~, there are no exceptions.

Proposed Amended Rule:

- (1) As of July 1, 2017, there are no exceptions.

Authority: T.C.A. §§4-3-1411 and 50-3-201.

* 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 3/30/17 (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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 3/30/17

Signature: Burns Phillips

Name of Officer: Burns Phillips

Title of Officer: Commissioner of Labor and Workforce Development



Subscribed and sworn to before me on: March 30, 2017

Notary Public Signature: Desiree W. Felts

My commission expires on: March 13, 2020

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
4/17/2017 Date

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Filed with the Department of State on: 4/24/17

Effective on: 7/23/17

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Education

DIVISION:

SUBJECT: Denial, Formal Reprimand, Suspension, and Revocation of Educator Licensure

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-1-302

EFFECTIVE DATES: July 19, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Rule 0520-02-03-.09 governs the process of the State Board of Education issuing formal reprimands of educators as well as the denial, suspension, and revocation of educator licenses for certain instances of misconduct. This item repeals the prior Educator Licensure Rule 0520-02-03-.09 and replaces it with a rule that contains a clearly defined discipline schedule that imposes a specified range of discipline for the enumerated offenses. This revision also defines and explains the types of offenses for which educators may be disciplined. By doing so, both the State Board and those persons holding educator licenses will have a clear understanding and expectation of the discipline imposed for education indiscretions.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

Not applicable

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;

Rule 0520-02-03-.09 governs the process of the State Board of Education issuing formal reprimands of educators as well as the denial, suspension, and revocation of educator licenses for certain instances of misconduct. This item repeals the prior Educator Licensure Rule 0520-02-03-.09 and replaces it with a rule that contains a clearly defined discipline schedule that imposes a specified range of discipline for the enumerated offenses. This revision also defines and explains the types of offenses for which educators may be disciplined. By doing so, both the State Board and those persons holding educator licenses will have a clear understanding and expectation of the discipline imposed for education indiscretions.

- (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;

Pursuant to T.C.A. § 49-1-302, the State Board has the power to adopt policies governing the revocation of licenses and certificates for misconduct.

- (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;

This rule most directly affects educators and local boards of education. The State Board sought feedback from stakeholders including the Tennessee Educator's Association (TEA), Tennessee Organization of School Superintendents (TOSS), and the Tennessee Association of School Personnel Administrators (TASPA). TEA provided feedback that was incorporated in the rule revisions. The other organization did not provide feedback. The State Board urges adoption of this rule and has not received any objection from stakeholders.

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

There will be no substantial fiscal impact to state or local governments as a result of these revisions.

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

Elizabeth Taylor
Elizabeth.Taylor@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;

Elizabeth Taylor
Elizabeth.Taylor@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

Elizabeth Taylor
General Counsel, Tennessee State Board of Education
1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
(615) 253-5707
Elizabeth.Taylor@tn.gov

Nathan James
Nathan.James@tn.gov
1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
(615) 532-3528

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

None

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 Nashville, TN 37243
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Sequence Number: 04-15-17
 Rule ID(s): 6511
 File Date: 4/20/17
 Effective Date: 7/19/17

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:	Elizabeth Taylor
Address:	Andrew Johnson Tower, 1 st Floor 710 James Robertson Pkwy 37243
Zip:	37243
Phone:	615-253-5707
Email:	Elizabeth.Taylor@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-02-03	Educator Licensure
Rule Number	Rule Title
0520-02-03-.09	Denial, Formal Reprimand, Suspension, and Revocation

~~0520-02-03-09 Denial, Formal Reprimand, Suspension and Revocation.~~

- ~~(1) Automatic Revocation of License. The State Board of Education shall automatically revoke the license of a licensed teacher or administrator without the right to a hearing upon receiving verification of the identity of the teacher or administrator together with a certified copy of a criminal record showing that the teacher or school administrator has been convicted of any felony or offense listed at T.C.A. §§ 40-35-501(i)(2), 39-17-417, a sexual offense or a violent sexual offense as defined in 40-39-202, any offense in title 39, chapter 13, 39-14-301 and 39-14-302, 39-14-401 and 39-14-404, 39-15-401 and 39-15-402, 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction on a plea of guilty or nolo contendere, conviction for the same or similar offense in any jurisdiction, or conviction for the solicitation of, attempt to commit, conspiracy, or acting as an accessory to such offenses). The Board will notify persons whose licenses are subject to automatic revocation at least thirty (30) days prior to the Board meeting at which such revocation shall occur.~~

~~The State Board of Education may revoke, suspend, reprimand formally, or refuse to issue or renew a license for the following reasons:~~

- ~~(a) Conviction of a felony;~~
- ~~(b) Conviction of possession of narcotics;~~
- ~~(c) Being on school premises or at a school-related activity involving students while documented as being under the influence of, possessing or consuming alcohol or illegal drugs;~~
- ~~(d) Falsification or alteration of a license or documentation required for licensure;~~
- ~~(e) Denial, suspension or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, suspension or revocation under this rule; or~~
- ~~(f) Other good cause. Other good cause shall be construed to include noncompliance with security guidelines for Tennessee Comprehensive Assessment Program (TCAP) or successor tests pursuant to T.C.A. § 49-1-607, default on a student loan pursuant to T.C.A. § 49-5-108(d)(2) or failure to report under part (e).~~

~~For purposes of this part (2), "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.~~

~~A person whose license has been denied, suspended or revoked may not serve as a volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide, substitute teacher or in any other position during the period of the denial, suspension or revocation.~~

~~Restoration of License.~~

~~A person whose license has been suspended shall have the license restored after the period of suspension has been completed, and, where applicable, the person has complied with any terms prescribed by the State Board. Suspended licenses are subject to expiration and renewal rules of the State Board.~~

~~A person whose license has been denied or revoked under parts (1) or (2) may apply to the State Board to have the license issued or restored upon application showing that the cause for denial or revocation no longer exists and that the person has complied with any terms imposed in the order of denial or revocation. In the case of a felony conviction, before an application will be considered, the person must also show that any sentence imposed,~~

~~including any pre-trial diversion or probationary period has been completed. Application for such issuance or restoration shall be made to the Office of Educator Licensing and shall be voted on at a regularly scheduled meeting of the State Board of Education. Nothing in this section is intended to guarantee restoration of a license.~~

~~Notice of Hearing. Any person who is formally reprimanded or whose license is to be denied, suspended or revoked under part (2) or who is refused a license or certificate under part (3) shall be entitled to written notice and an opportunity for a hearing to be conducted as a contested case under the Tennessee Uniform Administrative Procedures Act, T.C.A. § 4-5-301, et seq.~~

~~Notification of Office of Educator Licensing. It is the responsibility of the superintendent of the employing public or non-public school or school system to inform the Office of Educator Licensing of licensed teachers or administrators who have been suspended or dismissed, or who have resigned, following allegations of conduct which, if substantiated, would warrant consideration for license suspension or revocation under parts (1) or (2). The report shall be submitted within thirty (30) days of the suspension, dismissal or resignation. The superintendent shall also report felony convictions of licensed teachers or administrators within thirty (30) days of receiving knowledge of the conviction.~~

~~Authority: T.C.A. § 49-1-302.~~

0520-02-03-.09 DENIAL, FORMAL REPRIMAND, SUSPENSION, AND REVOCATION.

(1) Definitions and Examples:

- (a) Conviction - Conviction resulting from a judgment of conviction or on a plea of guilty, a plea of no contest, or an order granting diversion under T.C.A. §§ 40-15-101 et seq. or 40-35-313.
- (b) Formal Reprimand - A less harsh licensing action than the suspension, revocation, or denial of a license, which admonishes an educator for certain conduct under this rule. An educator who has been reprimanded by the Board will receive a letter from the State Board of Education, which will become part of the educator's state and local record, indicating that the inappropriate conduct is discouraged and shall be subject to further disciplinary action if repeated.
- (c) Inappropriate Communication (Explicit) - Any communication between an educator and a student that describes, represents, or alludes to sexual activity or any other illicit activity.
- (d) Inappropriate Communication (Non-Explicit) - Any communication between an educator and a student that is beyond the scope of the educator's professional responsibilities. Examples of such non-explicit inappropriate communications include, but are not limited to, those communications that discuss the teaching staff member's or student's past or current romantic relationships; those that include the use of profanities or obscene language; those that are harassing, intimidating, or bullying; those that attempt to establish a personal relationship with a student; and those that are related to personal or confidential information regarding another school staff member or student.

- (e) Inappropriate Physical Contact - Unnecessary and unjustified physical contact with a student. Examples of such unnecessary and unjustified contact include, but are not limited to sexual contact, physical altercations, horseplay, tickling, improper use of corporal punishment, and rough housing.
- (f) Inappropriate Physical Contact With Harm – Inappropriate physical contact as described in subsection (e) above that results in physical or mental harm or the potential of physical or mental harm to a student.
- (g) Major Testing Breach - A breach of test security that results in nullification of test scores.
- (h) Minor Testing Breach - A breach of test security that does not result in nullification of any test scores.
- (i) Negligence - Failure to exercise the care toward others that a reasonable or prudent person would exercise under the circumstances or taking action that a reasonable person would not.
- (j) Official School Business – Any activity undertaken by an educator in an official capacity and in connection with the educator’s employment.
- (k) Other Good Cause – Conduct that calls into question the fitness of an educator to hold a license including, but not limited to, noncompliance with security guidelines for Tennessee Comprehensive Assessment Program (TCAP) or successor tests pursuant to T.C.A. § 49-1-607, failure to report licensure actions under parts (3) or (4), or violation of any provision in the Teacher Code of Ethics as contained in T.C.A. § 49-5-1003.
- (l) Permanent Revocation – The nullification of an educator’s license without eligibility for future reinstatement.
- (m) School Premises – Any real property and/or land owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (n) School Property – Any property owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (o) School Related Activity – Any activity in which a student participates, including but not limited to classes, meetings, extracurricular activities, clubs, athletics, and field trips, sponsored by the school, state educational agency, or local educational agency.
- (p) Suspension – The nullification of an educator’s license for a predetermined term, after which the license is automatically reinstated. Reinstatement may be subject to the completion of terms and conditions contained in the order of suspension.
- (q) Revocation – The nullification of an educator’s license for a period of at least five (5) years, after which an educator may petition the State Board for reinstatement.

(2) Notification of Office of Educator Licensing - It is the responsibility of the Director of Schools of the employing public or non-public school or school system or his or her designee to inform the Office of Educator Licensing of licensed educators who have been suspended or dismissed, or who have resigned, following allegations of conduct which, if substantiated, would warrant consideration for license suspension or revocation under parts (3) or (4). The report shall be submitted within thirty (30) days of the suspension, dismissal, or resignation. The Director of Schools or his or her designee shall also report felony convictions of licensed educators within thirty (30) days of receiving knowledge of the conviction. School systems have a duty to respond to State Board inquiries and provide to the State Board any available documentation requested concerning the allegations contained in the notice.

(3) The State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for the following reasons:

(a) Conviction of a felony;

(b) Conviction of possession of illegal drugs;

(c) Being on school premises, at a school-related activity involving students, or on official school business, while possessing or consuming alcohol or illegal drugs;

(d) Falsification or altering of a license or documentation required for licensure;

(e) Inappropriate physical contact with a student;

(f) Denial, suspension, or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, suspension, or revocation under this rule;

(g) Other good cause as defined in section (1)(k) of this rule; or

(h) Any offense contained in part (4) of this rule.

(4) Disciplinary Actions

(a) Automatic Revocation of License – The State Board of Education shall automatically revoke, without the right to a hearing, the license of an educator upon receiving verification of the identity of the licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of any offense listed at T.C.A. §§ 40-35-501(i)(2), 39-17-417, a sexual offense or a violent sexual offense as defined in 40-39-202, any offense in title 39, chapter 13, 39-14-301 and 39-14-302, 39-14-401 and 39-14-404, 39-15-401 and 39-15-402, 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction for the same or similar offense in any jurisdiction). The Board will notify persons whose licenses are subject to automatic revocation at least thirty (30) days prior to the Board meeting at which such revocation shall occur.

(b) Automatic Suspension of License - The State Board of Education shall automatically suspend the license of an educator for the following offenses:

1. Default on a student loan pursuant to T.C.A. § 49-5-108(d)(2); or

2. Failure to comply with an order of support for alimony or child support, pursuant to T.C.A. §36-5-706.

(c) For the following categories of offenses, the State Board of Education shall impose uniform disciplinary action as detailed below:

1. Conviction of a felony

(i) Upon receiving notification that an individual has been convicted of a felony, the Board may revoke or permanently revoke the convicted individual's educator license.

2. Use or possession of alcohol or illicit substances

(i) An individual holding an educator's license who is found to be in possession of, or otherwise using, alcohol or illicit substances while on school premises or property when children are present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.

(ii) An individual holding an educator's license who is found to be in possession of, or otherwise using, alcohol or illicit substances while on school premises or property without children present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.

(iii) An individual holding an educator's license who is found to be in possession of, or otherwise using, alcohol or illicit substances while not on school premises or property, but while participating in school related activities with children present, shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.

(iv) An individual holding an educator's license who is found to be in possession of, or otherwise using, alcohol or illicit substances while not on school premises or property, but participating in school related activities without children present, shall be subject to a disciplinary action within the range of suspension for not less than six (6) months up to and including a two (2) - year suspension.

3. Negligence in the commission of duties as an educator

- (i) An individual holding an educator's license who is found to be negligent in his or her commission of duties as an educator in such a manner that does not result in harm to a child shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a two (2)-year suspension.
- (ii) An individual holding an educator's license who is found to be negligent in their commission of duties as an educator in such a manner that results in harm to a child, shall be subject to a disciplinary action within the range of suspension for no less than one (1) year up to and including permanent revocation.

4. Testing breaches

- (i) An individual holding an educator's license who is found to have committed a minor testing breach shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a suspension not to exceed one (1) year.
- (ii) An individual holding an educator's license who is found to have committed a major testing breach shall be subject to a disciplinary action within the range of a suspension of no less than one (1) year up to and including revocation.

5. Unprofessionalism

- (i) An individual holding an educator's license who is found to have administered inappropriate disciplinary measures to a student shall be subject to a disciplinary action within the range of a suspension for no less than one (1) year up to and including permanent revocation.
- (ii) An individual holding an educator's license who is found to have engaged in non-explicit inappropriate communication with a student shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.
- (iii) An individual holding an educator's license who is found to have engaged in inappropriate communication of an explicit nature with a student shall be subject to permanent revocation.
- (iv) An individual holding an educator's license who is found to have inappropriately used school property shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.

6. Inappropriate Physical Contact

(i) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that does not result in harm or potential harm to the student shall be subject to a disciplinary action within the range of a formal reprimand up to and including suspension for two (2) years.

(ii) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that results in harm or potential harm to the student shall be subject to a disciplinary action within the range of a suspension for not less than two (2) years up to and including permanent revocation.

7. Falsification of Licensure Documentation - An individual holding an educator's license who is found to have falsified licensure documentation shall be subject to a disciplinary action within the range of revocation or permanent revocation.

8. Violation of the Teacher Code of Ethics - An individual holding an educator's license who is found to have violated the teacher code of ethics shall be subject to a disciplinary action within the range of one (1) year up to and including revocation.

(d) Similar offenses – Actions related or similar to the above-enumerated offenses shall carry recommended disciplinary action commensurate with the range established for the similar offense.

(e) Nothing in this part shall prevent an educator from exercising his or her lawful authority to use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person pursuant to T.C.A. § 49-6-4107.

(f) Repeated violations – Individuals holding an educator's license who are subject to multiple disciplinary actions by the Board shall face disciplinary action in excess of the recommended ranges. A third violation, regardless of severity, shall be subject to a recommendation of revocation.

(g) Nothing in this rule shall prohibit the State Board from imposing a disciplinary action outside of the uniform discipline range upon good cause shown in extraordinary circumstances.

(5) Restoration of License

(a) Suspension

1. A person whose license has been suspended under parts (3) or (4) of this rule shall have his or her educator's license restored after the period of suspension has been completed, and, where applicable, the person has complied with all terms prescribed by the State Board. Suspended licenses are subject to the expiration and renewal rules of the State Board.

(b) Denial or Revocation

1. A person whose license has been denied or revoked under parts (3) or (4) of this rule may apply to the State Board to have the license issued or restored upon application showing that the cause for denial or revocation no longer exists and that the person has complied with any terms imposed in the order of denial or revocation. In the case of a felony conviction, before an application will be considered, the person must also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Application for such issuance or restoration shall be made to the Office of Educator Licensing and forwarded to State Board counsel.
 2. A person whose license has been revoked under parts (3) or (4) of this rule shall not be eligible to reapply for licensure for a period of no less than five (5) years from the time at which the license was initially revoked.
 3. In any deliberation by the Board of Education to restore a license that has been revoked, there will be a rebuttable presumption that an educator whose license has been revoked is unfit for licensure. Nothing in this section is intended to guarantee restoration of a license.
- (6) Presumptive Denial – There shall be a rebuttable presumption that any person applying for an educator's license who has committed an offense that would subject him or her to revocation if licensed shall be ineligible to receive a Tennessee educator's license.
- (7) Scope of Disciplinary Action – A person whose license has been denied, suspended, or revoked may not serve as a volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide, substitute teacher, or in any other position during the period of the denial, suspension, or revocation.
- (8) Notice of Hearing – Any person who is formally reprimanded or whose license is to be denied, suspended, or revoked under parts (3) or (4) of this rule shall be entitled to written notice and an opportunity for a hearing to be conducted as a contested case under the Tennessee Uniform Administrative Procedures Act, T.C.A. § 4-5- 301, et seq.

(9) Discipline Schedule – The following chart outlines the least and greatest first-time disciplinary ranges for the offenses listed as indicated by the shaded squares.

	<u>Letter of Formal Reprimand</u>	<u>Suspension of 3 months up to and including 6 months</u>	<u>Suspension of 6 months up to and including 1 Year</u>	<u>Suspension of 1 Year up to and including 18 Months</u>	<u>Suspension of 18 months up to and including 2 Years</u>	<u>Suspension of 2 years up to and including Revocation</u>	<u>Revocation</u>	<u>Permanent Revocation</u>
Minor Testing Breach								
Negligence w/o Harm or Potential Harm								
Inappropriate Physical Contact w/o Harm								
Unprofessionalism — Inappropriate Communication (Non-Explicit)								
Unprofessionalism — Inappropriate Use of School Property								
Possession/Use - Off School Premises/Property w/o Children Present During School Related Activity								
Possession/Use - Off School Premises/Property w/ Children								
Possession/Use - On School Premises/Property w/o Children								
Possession/Use - On School Premises/Property w/ Children	-	-	-	-	-	-		
Major Testing Breach	-	-	-	-	-	-		
Violation of Teacher Code of Ethics	-	-	-	-	-	-		
Negligence w/ Harm or Potential Harm to a Student								
Inappropriate Disciplinary Measures								
Inappropriate Physical Contact with Harm								
Felony Conviction								
Falsification of Licensure Documentation	-	-	-	-	-	-		
Unprofessionalism - Inappropriate Communication (Explicit)	-	-	-	-	-	-		

Authority: T.C.A. § 49-1-302. Administrative History: Repeal and new rule filed December 18, 2015; effective March 18, 2015. A stay of the rule was filed January 28, 2015; new effective date June 1, 2015. Amendment filed May 29, 2015; effective August 27, 2015. Emergency rule filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016.

* 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)
Chancey	X				
Cook	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre				X	
Roberts				X	
Rolston	X				
Tucker	X				
Troutt				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 10/14/2016 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: March 28, 2017

Signature: [Handwritten Signature]

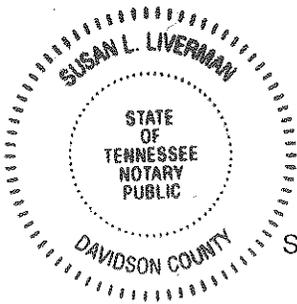
Name of Officer: Elizabeth Taylor

Title of Officer: General Counsel

Subscribed and sworn to before me on: March 28, 2017

Notary Public Signature: [Handwritten Signature]

My commission expires on: 8-4-20



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
4/17/2017
 Date

Department of State Use Only

Filed with the Department of State on: 4/20/17

Effective on: 7/19/17

[Handwritten Signature]
 Tre Hargett
 Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Education

DIVISION:

SUBJECT: Employment Standards

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 49-1-302

EFFECTIVE DATES: July 2, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Rule 0520-01-02-.03 - Employment Standards describes standards for Tennessee educators. These changes make revisions to employment standards for teachers of computer technology, career and technical education teachers, and career and technical education supervisors. They also clarify that a supervisor of instruction must have the instructional leader license-professional. Moreover, the changes add requirements for school nutrition program directors based on newly released federal employment standards for school nutrition program directors.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Not applicable.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These rules will have no 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;

Rule 0520-01-02-.03 - Employment Standards describes standards for Tennessee educators. These changes make revisions to employment standards for teachers of computer technology, career and technical education teachers, and career and technical education supervisors. They also clarify that a supervisor of instruction must have the instructional leader license-professional. Moreover, the changes add requirements for school nutrition program directors based on newly released federal employment standards for school nutrition program directors.

- (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;

Pursuant to T.C.A. § 49-1-302, it is the duty of the State Board, and it has the power to develop and adopt policies governing the qualifications, requirements, and standards of and provide the licenses and certificates for all public educators.

- (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;

This rule most directly affects local boards of education and educators who have neither urged adoption nor rejection of this rule. The State Board supports the rule change and has not received any objection from the local boards of education and/or educators.

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

N/A

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

Elizabeth Taylor
Elizabeth.Taylor@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;

Elizabeth Taylor
Elizabeth.Taylor@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

Elizabeth Taylor
1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
(615)-253-5707
Elizabeth.Taylor@tn.gov

Nathan James
Nathan.James@tn.gov
1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
(615)-532-3528

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

N/A

**Department of State
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For Department of State Use Only

Sequence Number: 04-01-17
Rule ID(s): 6507
File Date: 04/03/17
Effective Date: 07/02/17

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:	Elizabeth Taylor
Address:	710 James Robertson Parkway Andrew Johnson Tower 1 st Floor Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Elizabeth.Taylor@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-01-02	Administrative Rules and Regulations
Rule Number	Rule Title
0520-01-02-.03	Employment Standards

**RULES
OF
THE TENNESSEE DEPARTMENT OF EDUCATION THE STATE BOARD OF EDUCATION
CHAPTER 0520-01-02 ADMINISTRATIVE RULES AND REGULATIONS**

0520-01-02-03- EMPLOYMENT STANDARDS.

(1) A teacher or principal shall hold a valid Tennessee teacher license with an endorsement covering the work assignment as provided in T.C.A. Title 49, Chapter 5.

~~(2) A teacher may teach up to two (2) sections of one (1) course outside the area of endorsement. For a teacher to teach more than one (1) course or more than two (2) sections of one (1) course outside the area of endorsement, an employment standard waiver must be requested and approved. Teachers assigned two (2) or more sections of a course outside the area of endorsement before June 30, 1976 may continue to teach those courses until a new assignment is made by the local school officials.~~

~~(2) A classroom teacher with an endorsement in elementary education or early childhood education is eligible to teach any subject, including art, music, and physical education in the grades covered by the endorsement as part of the teacher's regular classroom assignment.~~

~~(3) Districts and schools may exercise the following endorsement flexibility for educators:~~

~~(a) A classroom teacher with an endorsement in elementary education or early childhood education is eligible to teach any subject, including art, music, and physical education in the grades covered by the endorsement as part of the teacher's regular classroom assignment.~~

~~(b) A teacher with a professional license may teach Algebra I at any grade level if they have:~~

~~1. An endorsement to teach at least through grade eight (8);~~

~~2. A passing score on the middle school math PRAXIS; and~~

~~3. Successful completion of a state-approved training OR a passing score on a supplemental test in the content area approved for this purpose by the department of education.~~

~~The department of education may provide additional endorsement flexibility as appropriate.~~

~~(c)~~

~~However, a teacher with a professional license pursuant to State Board Rule 0520-02-04-01(2)(c), may teach Algebra I at any grade level if they have:~~

~~(a) An endorsement to teach through at least grade eight (8); and~~

~~(b) A passing score on the middle school math PRAXIS; and~~

~~1. Successful completion of a state-approved training; or~~

(Rule 0520-01-02-.03, continued)

~~2. A passing score on a supplemental test in the content area approved for this purpose by the State Department of Education, or~~

~~3. A one (1) year, two (2) year, or three (3) year Tennessee Value-Added Assessment System (TVAAS) score of Level five (5) in Algebra I in the 2011-12, 2012-13, or 2013-14 school years.~~

(3) A teacher in grades ~~Kindergarten~~ through eight (8) who teaches art, music, or physical education for the major portion of the day shall be endorsed in art, music, or physical education respectively. However, a teacher endorsed in elementary education who was assigned to teach music, art, or physical education for the major portion of the day during the 1990-91 school year may continue to teach the specific course until such time as a new assignment is made by the local school officials.

~~(4)~~

~~(4) A teacher with a license endorsed in a subject 7-12 may teach any subject in grade six covered by the endorsement.~~

(5) Principals.

(a) ~~Effective September 15, 2009, A~~ assistant principals, teaching principals, or dual assignment personnel with more than fifty percent (50%) of their responsibilities involved in instructional leadership must be properly licensed or be enrolled in a State Board approved instructional leadership preparation program.

(b) A principal shall hold one of the following endorsements: ~~beginning administrator, professional administrator, administration/supervision, or principal; instructional leader or professional administrator license.~~

~~(c) Individuals employed for the first time as a principal beginning July 1, 1994, shall hold an appropriate endorsement and shall meet the requirements for test/assessment specified by the State Board of Education.~~

~~(d) Individuals employed for the first time as a principal beginning July 1, 1994, shall be employed with the beginning administrator, administration/supervision or principal endorsements for a maximum of three years; after three years, the principal must be recommended for and attain the professional administrator endorsement for continued employment as a principal. In the event that a candidate changes employment prior to obtaining the professional administrator endorsement, the candidate may be employed again as a beginning principal prior to obtaining the professional administrator endorsement.~~

~~(e)~~(c) A principal, with the approval of the superintendent, shall establish and implement an annual plan for personal professional development in accordance with guidelines established by the State Board of Education.

(f) A principal of a school with less than 225 students shall not be required to meet the requirements of (a), (b), ~~or (c).~~

~~(d)~~

~~(g) A principal holding an endorsement in administration/supervision, supervisor of instruction, or principal on August 31, 1994, shall not be required to meet the requirements of (b) or (c).~~

(6) Teaching Personnel in Gifted Education

(Rule 0520-01-02-.03, continued)

- (a) A classroom teacher in special or general education providing direct instruction to students identified by state criteria as intellectually gifted students shall meet the following employment standards:
1. The teacher shall be endorsed in the appropriate general education area or must hold the appropriate special education endorsement; and
 2. The teacher shall meet one of the following standards:
 - (i) The teacher shall work in consultation with a teacher who meets the standards for consulting teachers listed in (b); or
 - (ii) The teacher shall have completed six (6) semester hours of college or university course work or the equivalent contact hours in teaching gifted students approved by the Department of Education; or
 - (iii) The teacher shall hold an endorsement in gifted education.
- (b) A consulting teacher in special or general education who works with other teachers or who teaches classes especially designed for gifted students in grades pre-kindergarten through twelve (12) shall meet the following employment standards:
1. The consulting teacher shall be endorsed in the appropriate general education area or must hold the appropriate special education endorsement; and
 2. The consulting teacher shall meet one of the following standards:
 - (i) The consulting teacher shall have completed six (6) semester hours of college or university coursework or the equivalent contact hours in teaching gifted students approved by the Department of Education; or
 - (ii) The consulting teacher shall hold an endorsement in gifted education.
- (c) An individual who serves as a gifted education coordinator in special or general education shall meet one of the following employment standards:
1. The individual shall hold an educator license with an endorsement in gifted education; or
 2. The individual shall hold an educator license and shall have completed six (6) semester hours of college or university coursework or the equivalent contact hours in teaching gifted students approved by the Department of Education; or
 3. The individual shall hold a license endorsed in one of the following, ~~beginning administrator, professional administrator, administration/supervision or supervisor of instruction.~~ instructional leader or professional administrator license.
- (d) A classroom teacher who was endorsed in special education prior to September 1, 1989 and who served gifted students prior to July 1, 1988, may continue to teach eligible intellectually gifted students, provided that they have completed an in-service training program approved by the Department of Education.

- (7) Teachers of Computer Technology, Grades 9-12.

(Rule 0520-01-02-.03, continued)

- (a) A teacher of personal computing, computer productivity applications, and interactive multimedia design shall have a valid Tennessee teacher license with an endorsement in grades six (6) through twelve (6-12) and/or seven (7) through twelve (7-12) and shall have completed the equivalent of six (6) semester hours of computer course work or have the appropriate endorsement.
- ~~(b) A teacher of BASIC and adventures in computing shall have a valid Tennessee teacher license with an endorsement grades 7-12 and shall have completed the equivalent of six semester hours of computer course work including at least one programming language.~~
- ~~(c)~~(b) A teacher of programming languages and advanced placement computer science shall have a valid Tennessee teacher license with an endorsement grades six (6) through twelve (6-12) and seven (7) through twelve (7-12) and shall have completed the equivalent of twelve (12) semester hours of computer course work including six (6) semester hours of programming.
- (8) Career and Technical Education.
- (a) A teacher of agricultural education shall hold a valid Tennessee teacher license with appropriate endorsement ~~and shall have appropriate work experience.~~
- ~~(b) A teacher of marketing education shall hold a valid Tennessee teacher license with appropriate endorsement and shall have two (2) years of appropriate experience in marketing education.~~
- (b) A teacher of health science education shall have completed one (1) year of successful employment experience, obtained through full-time or part-time status, within the past five (5) years in a related health occupation prior to teaching.
- (d) Other occupational educators shall be a high school graduate or higher. The teacher shall have a minimum of one (1) to five (5) years of appropriate and current work experience in the field for which application is made and based on the respective requirements of the endorsement. A combination of career and technical education at the postsecondary level from a state approved institution, or other accredited public or private institution, may also be evaluated. The amount of credit awarded for work experience through postsecondary education shall depend on the endorsement and related industry.
- (9) Other Instructional and Related Personnel.
- (a) A school counselor shall hold the appropriate license and endorsement for the grade levels assigned.
- (b) A school psychologist shall hold a valid license with the school psychologist endorsement.
- (c) A school social worker shall hold a license with the school social work endorsement.
- ~~(d) A supervisor of instruction shall hold a valid Tennessee license with one of the following endorsements endorsed in: beginning administrator, professional administrator, administrator/supervisor, or supervisor of instruction, instructional leader or professional administrator license.~~
- ~~(d)~~

(Rule 0520-01-02-.03, continued)

- ~~1. Beginning July 1, 1994, individuals employed for the first time as a supervisor of instruction shall hold an appropriate endorsement and shall meet the requirements for test/assessment specified by the State Board of Education.~~
1. Beginning July 1, 1994, Individuals employed for the first time as a supervisor of instruction shall be employed with the beginning administrator, administrator/supervisor, or supervisor of instruction instructional leader or professional administrator license endorsement for a maximum of three (3) years. After three (3) years, for continued employment as a supervisor of instruction, the supervisor of instruction must be recommended for and attain the professional administrator endorsement. In the event that the candidate changes employment prior to obtaining the professional administrator endorsement, the candidate may be employed again as a beginning supervisor of instruction prior to obtaining the professional administrator endorsement.
- 2.1 Any person who performs the duties of a supervisor of instruction, regardless of the title of such person's position, must have the endorsement or license required of a supervisor of instruction.
- 3.2 Persons having an endorsement as a supervisor of instruction as of August 31, 1994, shall be issued a professional administrator license and shall not be required to meet the requirements of 1 or 2.
- (e) A supervisor of special education shall:
1. Hold a valid Tennessee license with one of the following endorsements: beginning administrator, administrator/supervisor, or supervisor of instruction instructional leader or professional administrator license and shall have three (3) years of experience with programs for children with disabilities; or
 2. Hold a master's degree and a valid Tennessee teacher license with endorsement in at least one (1) area of special education and shall have three (3) years of experience with programs for children with disabilities.
- (f) Any person who performs the duties of a supervisor of instruction, regardless of the title of such person's position, must have the endorsement or license required of a supervisor of instruction.
- (g) Persons having an endorsement as supervisor of instruction as of August 31, 1994, shall be issued a professional administrator license.
- ~~(h) Compensatory Education Personnel (Chapter 4):~~
- ~~1. A project director or supervisor of the subject areas and/or program areas shall hold endorsement as supervisor of instruction, administration/supervision or superintendent.~~
 - ~~2. A Chapter 4 evaluator shall hold a valid Tennessee teacher license or shall meet employment standards as a school psychologist or school counselor.~~
 - ~~3. Other professional personnel employed in Chapter 4 programs not otherwise covered by licensure or employment standards shall possess a valid Tennessee teacher license.~~

(Rule 0520-01-02-.03, continued)

~~(h)~~ Persons holding career and technical education supervisory positions, including local directors, supervisors, coordinator specialists, assistant principals for career and technical education, and center administrators, shall have one (1) of the following sets of qualifications:

1. A bachelor's degree in career and technical education from an accredited four (4)- year college or university, three (3) years of teaching experience in an approved career and technical education program and two (2) years of appropriate employment experience in a recognized occupation, and completion of (by July 1, 2008 or within a three (3)-year period from the date of employment) the required matrix of career and technical core competencies for professional development; or
2. A bachelor's degree with a career and technical education endorsement, three (3) years teaching experience, two (2) years of appropriate work experience, and completion of (by July 1, 2008 or within a three (3)-year period from the date of employment) the required matrix of career and technical core competencies for professional development; or
3. An endorsement as a PreK-12 administrator or secondary supervisor or principal and completion of (by July 1, 2008 or within a three (3)-year period from the date of employment) the required matrix of career and technical core competencies for professional development.

~~(i)~~ Educational assistants shall have not less than a high school education or an equivalency high school diploma; those who have completed one (1) or more years of college shall be given preference in employment.

~~(j)~~ A director of schools superintendent appointed by the local board of education elected by the general public shall only be required to have a baccalaureate degree. ~~Any elected superintendent shall meet all qualifications set forth in these rules and regulations, which include at least a master's degree with emphasis in administration supervision and related courses.~~

~~(k)~~ All individuals employed by local school systems to provide educational interpreting for students who are deaf, deaf-blind, or hard of hearing must hold a valid Tennessee School Services Personnel license with the appropriate endorsement or must meet the following employment standards:

1. Non-licensed educational interpreters employed by a local school system prior to January 2021, shall satisfy the following requirements by- January 1, 2021:
 - (i) Obtain a passing score on the written portion of the Educational Interpreter Performance Assessment (EIPA); and
 - (ii) Obtain a minimum score of 3.0 on the performance assessment portion of the EIPA.
2. All non-licensed educational interpreters employed by a local schools system on January 1, 2021, or after, shall satisfy the following requirements:
 - (i) Hold at a minimum an associate's degree;
 - (ii) Obtain a passing score on the written portion of the Educational

(Rule 0520-01-02-.03, continued)

Interpreter Performance Assessment (EIPA); and

- (iii) Obtain a minimum score of 3.0 on the performance assessment portion of the EIPA.

Compensation of non-licensed individuals providing educational interpreting shall be determined by the local school system and shall take into consideration the level of preparation, training, and work requirements.

~~(m)(l)~~ An audiologist shall hold a license with audiologist endorsement.

~~(n)(m)~~ A school speech-language pathologist shall hold a school service personnel license with the school speech language pathologist endorsement, pursuant to ~~0520-02-04-12(2)~~.

~~(o)(n)~~ A school speech-language teacher hired by a local school system to work under the direction of a school speech-language pathologist shall hold a school speech-language teacher license (A or B), a teacher license with a school speech-language teacher endorsement or a teacher license with an endorsement 068 or 464, pursuant to ~~0520-02-03-01(20)~~.

(10) Personal Finance.

(a) A teacher of personal finance shall hold a valid secondary or K-12 Tennessee teacher license; and

1. Complete a minimum of fourteen (14) clock hours of training provided by the State Department of Education on use of the state adopted Personal Finance curriculum; or
2. Complete fourteen (14) clock hours of training on Personal Finance provided by State Department of Education--approved organizations and/or institutions of higher education.

(b) Teachers licensed to teach Economics, Business, Marketing, and Family and Consumer Sciences meet these employment standards and may be exempted from the training requirements of subparagraph (a).

(11) School Nutrition Program Directors.

(a) School nutrition program directors hired on or after July 1, 2015, shall complete at least eight (8) hours of food safety training either not more than five (5) years prior to the employee's start date or within thirty (30) days of the employee's start date and shall meet the following criteria:

1. School nutrition program directors employed by LEAs with a student enrollment of 500 to 2,499 must meet one (1) of the following criteria:
 - (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;
 - (ii) Bachelor's degree in any academic major and a School Nutrition

(Rule 0520-01-02-.03, continued)

- Association Level 3 Certificate in School Nutrition;
- (iii) A valid Tennessee teacher license with a school food service supervisor endorsement;
 - (iv) Bachelor's degree in any academic major and at least one (1) year of relevant school nutrition experience;
 - (v) Associate's degree or equivalent educational experience, with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least one (1) year of relevant school nutrition programs experience; or
 - (vi) High school diploma, or equivalency diploma, and at least three (3) years of relevant experience in school nutrition programs.
2. School nutrition program directors employed by LEAs with a student enrollment of 2,500 to 9,999 must meet one (1) of the following criteria:
- (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;
 - (ii) Bachelor's degree in any academic major and a School Nutrition Association Level 3 Certificate in School Nutrition;
 - (iii) A valid Tennessee teacher license with a school food service supervisor endorsement;
 - (iv) Bachelor's degree in any academic major and at least two (2) years of relevant school nutrition experience; or
 - (v) Associate's degree or equivalent educational experience, with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least two (2) years of relevant school nutrition programs experience.
3. School nutrition program directors employed by LEAs with a student enrollment of more than 10,000 must meet one (1) of the following criteria:
- (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;
 - (ii) Bachelor's degree in any academic major and a School Nutrition Association Level 3 Certificate in School Nutrition;
 - (iii) A valid Tennessee teacher license with a school food service supervisor endorsement; or

(Rule 0520-01-02-.03, continued)

(iv) Bachelor's degree in any academic major and at least five (5) years of experience in management of school nutrition programs.

(b)

Authority: T.C.A. §§ 49-1-302, 49-2-301, 49-5-108; 49-6-6006, and Section 86 of Chapter 535 of the Public Acts of 1992. **Administrative History:** Original rule certified June 10, 1974. Amendment filed July 10, 1974; effective July 10, 1974. Amendment filed June 30, 1975; effective July 30, 1975. Amendment filed July 15, 1976; effective August 15, 1976. Amendment filed February 28, 1978; effective March 30, 1978. Amendment filed January 9, 1979; effective February 23, 1979. Amendment and new rule filed October 15, 1979; effective January 8, 1980. Amendment filed November 13, 1981; effective March 16, 1982. Amendment filed June 4, 1982; effective September 30, 1982. Amendment filed August 17, 1983; effective November 14, 1983. Amendment filed August 20, 1984; effective November 13, 1984. Amendment filed September 26, 1985; effective December 14, 1985. Amendment filed May 8, 1986; effective June 27, 1986. Amendment filed September 20, 1987; effective December 22, 1987. Amendment filed October 18, 1988; effective January 29, 1989. Amendment filed November 9, 1989; effective February 28, 1990. Amendment filed July 11, 1990; effective October 29, 1990. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed May 12, 1992; effective August 29, 1992. Amendment filed September 1, 1992; effective December 29, 1992. Amendment filed August 10, 1993; effective December 29, 1993. Amendment filed November 22, 1993; effective March 30, 1994. Amendment filed January 21, 1994; effective May 31, 1994. Amendment filed March 31, 1994; effective June 14, 1994. Amended by Public Chapter No. 957, Acts of 1994; effective May 10, 1994. (See Attorney General ~~opinion~~ Opinion No. 094-080). Amendment filed January 31, 1995; effective May 31, 1995. Amendment filed May 31, 1996; effective September 27, 1996. Amendment filed October 17, 1997; effective February 27, 1998. Amendment filed May 28, 1999; effective September 28, 1999. Amendment filed July 31, 2000; effective November 28, 2000. Amendment filed March 1, 2005; effective July 29, 2005. Amendments filed May 19, 2005; effective September 28, 2005. Amendment filed June 15, 2005; effective October 28, 2005. Amendment filed March 23, 2007; effective July 27, 2007. Amendments filed September 6, 2007; effective January 28, 2008. Amendment filed May 30, 2008; effective September 26, 2008. Amendment filed July 17, 2009; effective December 29, 2009. Amendments filed February 6, 2013; effective July 29, 2013. Amendments filed September 6, 2013; effective February 28, 2014. Amendment filed May 8, 2014; effective October 29, 2014. Amendment filed May 26, 2015; effective August 24, 2015. Amendment filed September 22, 2015; effective December 21, 2015.

* 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)
Chancey	X				
Cook	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre				X	
Roberts				X	
Rolston	X				
Tucker	X				
Troutt				X	

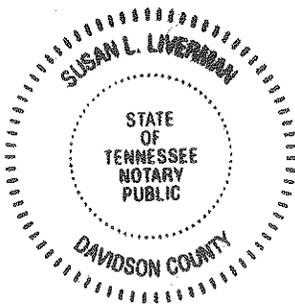
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 10/14/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition 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: 2/1/2017

Signature: [Handwritten Signature]

Name of Officer: Elizabeth Taylor

Title of Officer: General Counsel



Subscribed and sworn to before me on: Feb. 1, 2017

Notary Public Signature: Susan L. Liverman

My commission expires on: 8-4-2020

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

3/6/2017
Date

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SECRETARY OF STATE
PUBLICATIONS

Filed with the Department of State on: 04/03/17

Effective on: 07/02/17

[Handwritten Signature]

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Board of Trustees of the Baccalaureate Education System Trust Fund Program

DIVISION: Financial Empowerment

SUBJECT: Eligibility Requirements for College Savings Incentive Plan

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 49-7-805, 49-7-808(d), and 65-5-113(c)

EFFECTIVE DATES: July 16, 2017 through June 30, 2018

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The Department of Treasury has established a matching grant incentive program available to low-income individuals encouraging them to invest in the TNStars® College Savings Plan. For those individuals who qualify to participate in the matching grant incentive program, they will receive a matching contribution from the State that shall be four (4) times the individual's minimum contribution, up to a maximum matching contribution of five hundred dollars (\$500.00). The individual's contributions and the State's matching contributions will be invested in the individual's TNStars® College Savings Account for the benefit of the individual's beneficiary.

Current Rule 1700-05-03-.02 [ELIGIBILITY REQUIREMENTS] provides that in order for an individual to qualify to participate in the matching grant incentive program, the account beneficiary must be less than age twenty-five (25) at the time the application to participate is filed with the Board of Trustees of the Baccalaureate Education System Trust Fund Program. The proposed rules change the maximum eligibility age of the beneficiary from twenty-five (25) to fifteen (15), meaning the beneficiary of a TNStars® College Saving Account who is eligible to receive a matching grant award, must be less than fifteen (15) years of age at the time the application for participation in the matching grant program is filed with the Board. The purpose of reducing the maximum eligibility

age of a beneficiary is to ensure that the beneficiary has a longer investment horizon allowing the matching grant funds to grow over a greater period of time as an investment for future college costs.

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.

Not applicable.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

It is not anticipated that the rule amendment 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;

The Department of Treasury has established a matching grant incentive program available to low-income individuals encouraging them to invest in the TNStars® College Savings Plan. For those individuals who qualify to participate in the matching grant incentive program, they will receive a matching contribution from the State that shall be four (4) times the individual's minimum contribution, up to a maximum matching contribution of five hundred dollars (\$500.00). The individual's contributions and the State's matching contributions will be invested in the individual's TNStars® College Savings Account for the benefit of the individual's beneficiary.

Current Rule 1700-05-03-.02 [ELIGIBILITY REQUIREMENTS] provides that in order for an individual to qualify to participate in the matching grant incentive program, the account beneficiary must be less than age twenty-five (25) at the time the application to participate is filed with the Board of Trustees of the Baccalaureate Education System Trust Fund Program. The proposed rules change the maximum eligibility age of the beneficiary from twenty-five (25) to fifteen (15), meaning the beneficiary of a TNStars® College Saving Account who is eligible to receive a matching grant award, must be less than fifteen (15) years of age at the time the application for participation in the matching grant program is filed with the Board. The purpose of reducing the maximum eligibility age of a beneficiary is to ensure that the beneficiary has a longer investment horizon allowing the matching grant funds to grow over a greater period of time as an investment for future college costs.

- (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. §§49-7-805, 49-7-808(d), and 65-5-113(c).

- (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 persons or entities most directly affected by this rule are those that wish to open or have already opened a TNStars® College Savings Account and who qualify for a matching grant contribution from the Board based on income eligibility.

- (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;

To the best of the Board's knowledge, there are no Attorney General opinions or any judicial ruling that directly relates 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;

It is not anticipated that the proposed rules will result in an increase or decrease of state revenues or expenditures.

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

LaKasha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243; (615) 532-5888; Lakesha.Page@tn.gov and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee

37243; (615) 253-6150; Alison.Cleaves@tn.gov.

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

LaKesha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243; (615) 532-5888; LaKesha Page@tn.gov and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee 37243; (615) 253-6150; Alison.Cleaves@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

LaKesha Page; Board Administrator, Board of Trustees of the Baccalaureate Education System Trust Fund Program; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 15th Floor; Nashville, Tennessee 37243; (615) 532-5888; LaKesha Page@tn.gov and Alison Cleaves, Assistant General Counsel; Department of Treasury; 502 Deaderick Street, Andrew Jackson Building, 13th Floor; Nashville, Tennessee 37243; (615) 253-6150; Alison.Cleaves@tn.gov.

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

Any additional information requested by committee relevant to the proposed rules will be provided promptly upon request.

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Sequence Number: 04-13-17
 Rule ID(s): 6510
 File Date: 4/17/17
 Effective Date: 7/16/17

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 Trustees of the Baccalaureate Education System Trust Fund Program
Division:	Financial Empowerment
Contact Person:	LaKeshia Page, Director of College Savings
Address:	502 Deaderick Street, Andrew Jackson Building, 15 th Floor, Nashville, Tennessee
Zip:	37243
Phone:	(615) 532-5888
Email:	Lakesha.page@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
1700-05-03	College Savings Incentive Plan
Rule Number	Rule Title
1700-05-03-.02	Eligibility Requirements

**RULES
OF
THE TREASURY DEPARTMENT
BACCALAUREATE EDUCATION SYSTEM TRUST**

**CHAPTER 1700-05-03
COLLEGE SAVINGS INCENTIVE PLAN**

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1700-05-03-.01 IN GENERAL.

- (1) Purpose. The purpose of these rules is to establish and implement the college savings incentive plan or plans for the benefit of low-income individuals using funds from the Small and Minority-Owned Business Assistance Program pursuant to Chapter 359 of the 2013 Public Acts. The public act authorizes the Board of Trustees of the Baccalaureate Education System Trust Fund Program to promulgate rules relative to the implementation and administration of incentive plan or plans.

- (2) Definitions. For purposes of these rules:
 - (a) "Academic term" means the school segment consisting of a single semester, quarter, term or equivalent.
 - (b) "Account" means the record that contains the amount of contributions maintained on behalf of a Beneficiary under a Contract, plus the earnings or losses incurred thereon, including any withdrawals made from the Account.
 - (c) "Beneficiary" means an individual designated under a Contract as the individual entitled to apply contributions and earnings accrued under the Contract as well as Matching contributions to the payment of that individual's undergraduate, graduate and professional Qualified higher education expenses as defined in this chapter.
 - (d) "Board" has the same meaning as given in T.C.A. § 49-7-802(2).
 - (e) "Contract" means an Educational savings plan tuition contract entered into pursuant to T.C.A. § 49-7-808 by the Board and a Purchaser with an Eligible college savings program to provide for the payment of Qualified higher education expenses as defined in this chapter.
 - (f) "Educational savings plan" means a plan which permits individuals, associations, contributions and trusts to make contributions to an account that is established by a Purchaser for a designated Beneficiary.
 - (g) "Eligible college savings program" means any college savings program established pursuant to § 529 of the Internal Revenue Code with which the Board has contracted to provide similar benefits for Tennessee residents, or any § 529 college savings program established by the State of Tennessee, except for the educational services plan

(Rule 1700-05-03-.01, continued)

established in Chapter 1700-05-01 of the Official Compilation of the Rules and Regulations of the State of Tennessee.

- (h) "Eligible educational institution" means an institution of postsecondary education as defined in § 529 of the Internal Revenue Code.
- (i) "Fiscal year" means the period beginning on July 1 of each year and ending on June 30 of the next following year.
- (j) "Household" means a group of individuals who are related by birth, marriage, or adoption and who share a residence.
- (k) "Legally incompetent" means that an individual has been declared incompetent by a court of law. An individual shall not be considered to be Legally incompetent unless proof thereof is furnished in such form and manner as the Board may require.
- (l) "Matching contribution" means the amount that is deposited by the Board into the Board's account for each Beneficiary after all eligibility requirements for participation in the Matching grant incentive program have been satisfied pursuant to Rule 1700-05-03-.02.
- (m) "Matching grant incentive program" means the educational incentive program established pursuant to T.C.A. § 49-7-808(d) in which matching funds are contributed by the Board to Purchasers on behalf of Beneficiaries based on income levels for the Purchaser's Household and the amount of the Purchaser's contributions for the payment of the Beneficiary's Qualified higher education expenses.
- (n) "Member of the family" means the mother, father or ancestor of either, stepmother, stepfather, siblings of either the mother or father of the Beneficiary, or such other person as may be defined as a "Member of the family" of the Beneficiary under the sections of the Internal Revenue Code that are applicable to the eligible college savings program.
- (o) "Minimum contribution" means the amount that must have been contributed to the Account of a Beneficiary during the Qualifying period as determined pursuant to Rule 1700-05-03-.07 in order to be eligible for the Matching contribution.
- (p) "Permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or is anticipated to last for a continued or indefinite duration. An individual shall not be considered to have a Permanent disability unless proof is furnished of the existence of the disability from a health care professional in such form and manner as the Board may require. The Board must approve any finding of a Permanent disability.
- (q) "Purchaser" means an individual who enters into a Contract for the creation and deposit of contributions to a savings account on behalf of a Beneficiary, or in the case of the Purchaser's death or legal incompetence, the Purchaser's appointee.
- (r) "Purchaser's appointee" means the person who is named in the Contract by the Purchaser to exercise the rights of the Purchaser under the Contract if the Purchaser dies or becomes Legally incompetent.
- (s) "Qualified higher education expenses" has the same meaning as given under § 529 of the Internal Revenue Code and the regulations promulgated thereunder.

(Rule 1700-05-03-.01, continued)

- (t) "Qualifying period" means the time period as set by the Board each year during which a Purchaser must meet the conditions set forth in these rules in order to be eligible for a Matching contribution, including the time period during which a Purchaser must file an application for the Matching contribution.
- (u) "Redemption value" means the current cash value of an Account attributable to the sum of the principal invested through Purchaser contributions and the earnings or losses incurred thereon.
- (v) "State" means the State of Tennessee.
- (w) "Tennessee resident" means a person who has a continuous physical presence and maintenance of a dwelling place within the State of Tennessee for at least twelve (12) months immediately prior to entering into a Contract, provided that absence from the State for short periods of time may not affect the establishment of a residence. The effect of absences from the State for short periods of time will be determined on a case-by-case basis. A minor child shall be deemed a Tennessee resident if the child's legal guardian or noncustodial parent is a resident of Tennessee. Military or diplomatic personnel whose home of record is Tennessee shall also be deemed Tennessee residents for purposes of these rules.
- (x) "Withdrawal" means a disbursement of funds from the Account that is directed by the Purchaser to be paid to the Purchaser or an Eligible educational institution.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.02 ELIGIBILITY REQUIREMENTS.

- (1) The Purchaser must file an application for the Matching contribution in accordance with Rule 1700-05-03-.03 during the applicable Qualifying period.
- (2) The Purchaser must have an Account with the Eligible college savings program pursuant to the rules contained in Chapter 1700-05-04 Educational Savings Plan for the Beneficiary listed on the application on the date the application is filed with the Board and on the date the Matching contribution is deposited into the Account.
- (3) An amount equal to or greater than the Minimum contribution established in Rule 1700-05-03-.07 must have been contributed to the Account during the Qualifying period.
- (4) The Purchaser and the Beneficiary of the Account must be Tennessee residents at the time the application is filed with the Board.
- (5) The Beneficiary must be less than age fifteen (15) ~~twenty-five (25)~~ at the time the application is filed with the Board;
- (6) The Purchaser must be a Member of the family of the Beneficiary.
- (7) In addition to the eligibility requirements contained in paragraphs (1) through (6) of this rule, Purchasers who are applying to participate in the Matching grant incentive program are required to meet the income limits established by the Board for the Purchaser's Household in order to receive the matching contribution. In addition, the Purchaser shall not be claimed as a dependent on someone else's income tax return. The Board shall establish the income limits based on income standards that may be amended from time to time, including, but not limited to the following:

(Rule 1700-05-03-.02, continued)

- (a) Federal poverty guidelines;
 - (b) Federal poverty thresholds;
 - (c) Federal Income Eligibility Guidelines for free and reduced meals; and/or
 - (d) Federal Department of Health and Human Services poverty guidelines.
- (8) The Board shall consider factors in determining which standard will be used to establish the income limits for eligibility in the Matching grant incentive program, which include, but are not limited to, any or all of the following:
- (a) The amount of fund appropriations;
 - (b) The number of program Purchasers; and/or
 - (c) The anticipated participation level in the program.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.03 APPLICATION FOR MATCHING CONTRIBUTION.

- (1) A Purchaser must file an application for the Matching contribution on a form as prescribed by the Board. The application must include the following information:
- (a) The name and address of the Beneficiary;
 - (b) The name and address of the Purchaser;
 - (c) The relationship of the Purchaser to the Beneficiary;
 - (d) The sex and date of birth of the Beneficiary;
 - (e) The Purchaser's Household income;
 - (f) Authorization from the Purchaser for the Board to verify with the Eligible college savings program that all the requirements set forth in these Rules have been met for purposes of qualifying for the Matching contribution; and
 - (g) Such other information as the Board may require.
- (2) The application must be filed with the Board during the applicable Qualifying period and will be processed on a first come, first serve basis based on the amount of funds appropriated by the General Assembly.
- (3) In addition to the application requirements contained in paragraphs (1) and (2) of this rule, a Purchaser who is applying to participate in the Matching grant incentive program and receive the Matching contribution shall provide the Board with the following:
- (a) A copy of the federal income tax returns for the Purchaser and for each individual residing in the Purchaser's Household who is required to file an income tax return, for the tax year immediately preceding the year that the Beneficiary account is being established by the Purchaser;

(Rule 1700-05-03-.03, continued)

- (b) A copy of all W-2, W-4 and 1099 Forms that accompany each tax return in (a);
 - (c) A statement from the Purchaser or a member of the Purchaser's Household indicating why he/she is not required to file a federal tax return, in the event that the Purchaser or a member of the Purchaser's Household was not required to file a tax return for the tax year preceding the Purchaser's date of application;
 - (d) Authorizations executed by the Purchaser and the members of the Purchaser's Household allowing the Board to verify the federal adjusted gross income for the Purchaser and all individuals residing in that Household; and
 - (e) Such other and further documentation required by the Board.
- (4) Subsequent to a Purchaser's initial application to participate in the Matching grant incentive program, and for each subsequent Qualifying period, the Purchaser shall reapply to participate in the Matching grant incentive program by submitting an application and providing the information requested in paragraph (3) of this rule to the Board to ensure the Purchaser's continued eligibility to participate in this program. In the event that the Purchaser becomes ineligible to continue participating in the Matching grant incentive program and to continue receiving the Matching contribution for any Beneficiary accounts, the Purchaser shall be able to continue making contributions to the Purchaser's §529 college savings account but will not receive the Matching contribution for that year or any other subsequent year that the Purchaser does not qualify.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c), and T.C.A. §§ 49-7-805(16), and 49-7-805(4). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Amendments filed April 11, 2014; effective September 28, 2014.

1700-05-03-.04 REJECTION OF APPLICATION OR FORFEITURE OF MATCHING CONTRIBUTION.

- (1) Rejection of Application. An application for a Matching contribution will be rejected by the Board if any of the following occurs:
 - (a) The Purchaser fails to provide all the information required in Rule 1700-05-03-.03;
 - (b) The Purchaser fails to meet the eligibility requirements to participate in the Matching grant incentive program as provided in Rule 1700-05-03-.02.
 - (c) The Purchaser makes a misrepresentation in the application for the Matching contributions; or
 - (d) The requisite Minimum contribution was not made to the Account during the Qualifying period.
- (2) Forfeiture of Matching Contribution. If, at any time, the Board determines that a Purchaser made a misrepresentation in an application for a Matching contribution that resulted in a Matching contribution being made to an Account, the Matching contribution will be forfeited and returned to the Board.
- (3) Applications Made in Subsequent Qualifying Periods. Rejection of an application for a Matching contribution shall not preclude the Purchaser from reapplying for a Matching contribution in subsequent Qualifying periods, provided the Purchaser completes a new application and files the same with the Board during the applicable Qualifying period. Notwithstanding this Rule, the Board may, at its discretion, reject any application made by a

(Rule 1700-05-03-.04, continued)

Purchaser who was found to have made a misrepresentation on an application submitted by the Purchaser in a previous year.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c), and T.C.A. §§ 49-7-805(16), and 49-7-805(4). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Amendment filed April 11, 2014; effective September 28, 2014.

1700-05-03-.05 INELIGIBLE INDIVIDUALS.

- (1) For the first fiscal year that the Matching grant incentive program is in operation, the following individuals shall not be eligible to receive Matching contributions as either a Purchaser or a Beneficiary: Tennessee Department of Treasury employees; members of the Board, or an immediate family member of any of the foregoing. For purposes of this rule, an "immediate family member" means a parent, spouse, sibling, child, stepchild or grandchild. For each subsequent fiscal year, the Board shall determine whether the total amount of money available for the fiscal year will be sufficient to allow the individuals listed in this rule to receive a Matching contribution.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.06 PURCHASERS AND BENEFICIARIES.

- (1) A Purchaser may only have one (1) Beneficiary on each Account.
- (2) A Purchaser may not have more than one (1) Account in the same Beneficiary's name.
- (3) A Beneficiary who has been designated as a Beneficiary on more than one (1) Account by two (2) or more different Purchasers shall only be eligible for one (1) Matching Contribution during each Qualifying period and shall not be eligible to receive another Beneficiary's Matching contributions through a change in Beneficiary.
- (4) A Purchaser may request that the Beneficiary for the Purchaser's account be changed. A Purchaser may only change the Beneficiary on his or her account or accounts one (1) time. A Purchaser may change a beneficiary on an Account or Accounts by submitting the request for a change to the Board on a form prescribed by the Board. The new Beneficiary on an Account or Accounts will receive the Purchaser contributions and the Matching contributions from the accounts that were in a previous Beneficiary's name, unless the new Beneficiary already has an existing account with another Purchaser.
- (5) A Purchaser may not remove his or her name from an Account and substitute it with another Purchaser's name; however, a Purchaser's name may be removed from an Account upon the Purchaser's death, divorce or Permanent disability.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.07 AMOUNT OF MINIMUM AND MATCHING CONTRIBUTION.

- (1) For the first Fiscal year that the Matching grant incentive program is in operation, the Minimum contribution for participation in the Matching grant incentive program made by the Purchaser shall be twenty-five dollars (\$25.00), and the Matching contribution shall be four (4) times the Minimum contribution, up to a maximum Matching contribution of five hundred dollars (\$500.00). The maximum contribution that can be made by a Purchaser in order to

(Rule 1700-05-03-.07, continued)

receive the maximum Matching contribution shall be one hundred twenty-five dollars (\$125.00); however, the Purchaser is not prohibited from contributing more to his or her Eligible college savings plan Account without the expectation of receiving a higher Matching contribution. For each subsequent year or a portion of the year that the Matching grant incentive program is in operation, the Board may either set the Minimum and Matching contribution or delegate the responsibility of establishing the Minimum and Matching contributions to the State Treasurer. The Minimum or Matching contributions may be established or amended at any time, and may be established for any duration of time deemed necessary by either the Board or the State Treasurer. The Matching contribution amount for the Matching grant incentive program shall be determined either by the Board or the State Treasurer based upon the amount appropriated in that year's general appropriations act for the purposes set forth in these Rules, the number of program Participants, and the anticipated level of participation in the program.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.08 CONTRIBUTIONS AND WITHDRAWALS.

(1) Contributions.

- (a) Purchaser contributions to the Matching grant incentive program shall be made in accordance with Rule 1700-05-04-.04 by those Purchasers who qualify for participation in the program for a Beneficiary or Beneficiaries. Purchaser contributions will be subject to the limitations established in Rule 1700-05-04-.04.
- (b) Matching contributions shall be made by the Board for each Beneficiary Account established by a Purchaser but shall be maintained in an account separate from the account that contains the Purchaser's contributions.

(2) Withdrawals.

- (a) Eligibility. Once a Beneficiary has been accepted for enrollment in an Eligible educational institution the Purchaser may begin using funds, including Purchaser contributions and Matching contributions, on deposit in the Account for the payment of Qualified higher education expenses of the Beneficiary by requesting a Withdrawal of funds. Funds shall not be deemed on deposit in the Account until the fifteenth (15th) day following receipt of the respective funds from the Board. If the Purchaser desires the Board to send payment directly to the Eligible educational institution where the Beneficiary is enrolled, the notification must include the name and address of the institution, the amount of funds needed to pay the Qualified higher education expenses and supporting documentation showing the Qualified higher education expenses to be paid. Failure to provide sufficient notice prior to the start of the Academic term in which the funds would be used may result in an untimely payment being made to the institution.
- (b) Written Request. Any Withdrawal requests must be made in writing by the Purchaser or through other means acceptable to the Board, including electronic means.
- (c) Amount and Timing of Withdrawal. Subject to any limitations on Withdrawals contained in these rules, the Withdrawal amount will equal the amount requested, not to exceed the Redemption value of the Beneficiary's Account at the time the Withdrawal is processed. The Withdrawal amount will be paid within sixty (60) calendar days of receipt by the Board of the request required by subparagraph (2)(b).

(Rule 1700-05-03-.08, continued)

- (d) Withdrawals for Qualified Higher Education Expenses. The Purchaser may use either Purchaser contributions or the Matching contributions to pay for Qualified higher education expenses by directing payment to the Purchaser, the Beneficiary or an Eligible educational institution as an advance payment or as reimbursement for Qualified higher education expenses. Third party documentation to substantiate the request shall not be required unless otherwise provided for in § 529 of the Internal Revenue Code or the regulations promulgated thereunder.
- (e) Withdrawals for Non-Qualified Higher Education Expenses. The Purchaser may only use Purchaser contributions, and not Matching contributions, to pay for non-Qualified higher education expenses, provided that the Purchaser contributions have been on deposit in the Account for at least fifteen (15) calendar days and provided that there is at least one hundred dollars (\$100.00) remaining in the Account from Purchaser contributions once the withdrawal is made. Such a Withdrawal may be made without causing termination of the Contract and without requiring the Purchaser to establish that the withdrawal of the Purchaser contributions will be used for Qualified higher education expenses. The earnings portion of withdrawals made for non-Qualified higher education expenses could be subject to federal taxation as prescribed under the sections of the Internal Revenue Code and the regulations promulgated thereunder that are applicable to the program.
- (f) Scholarship Refund. If a Beneficiary is the recipient of a scholarship, allowance or payment described in § 25A(g)(2) of the Internal Revenue Code that the Board determines cannot be converted into money by the Beneficiary, the Purchaser may request a withdrawal of all or a portion of the Purchaser contributions; however, the Matching contributions will be refunded back to the Board. The Purchaser must furnish information about the scholarship, allowance or payment to the Board. If the scholarship, allowance or payment has a duration that extends beyond one (1) Academic term, the Purchaser may request a refund in advance of the scholarship payment. The amount of the refund payable to the Purchaser will be equal to the Redemption value of the Account that is not needed to cover the future Qualified higher education expenses on account of the scholarship, allowance or payment minus any applicable fee(s) charged by the Board and the Matching contributions.
- (g) Contract Termination and Refund. Except as provided in subparagraph (2)(c) of this rule, a Contract may not be terminated by a Purchaser for any reason except one (1) of the following circumstances: (i) the Beneficiary has died or suffers from a Permanent disability; (ii) the Beneficiary is age eighteen (18) or older and has decided not to attend an Eligible educational institution; (iii) the Beneficiary has completed the requirements for a degree that is less than a bachelor's degree at an Eligible educational institution and the Beneficiary does not plan to pursue further education; (iv) the Beneficiary has completed the bachelor's degree requirements at an Eligible educational institution; or (v) the Redemption value of the Account equals one hundred dollars (\$100.00) or less and no contributions have been deposited to the Account for a period of at least fifteen (15) consecutive days. The Contract termination request must be accompanied by documentation acceptable to the Board to substantiate the reason for the Contract termination. In the event that a Contract is terminated due to the Permanent disability or death of the Beneficiary, the amount of the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions, which will revert back to the Board. In the event that the Contract is terminated under any of the conditions described in items (ii) – (v) above, the amount of the refund paid to the Purchaser shall be equal to the Redemption value of the Account at the time the refund is made minus the Matching contributions and any applicable fee charged by the Board. The actual termination of the Contract will not occur until all funds in the Account have been refunded.

(Rule 1700-05-03-.08, continued)

- (h) Rollovers Out of the Program. The Purchaser may rollover all or a portion of the Purchaser contributions in the Account to an account established for another Beneficiary under the qualified tuition program established under § 529 of the Internal Revenue Code by making a rollover request to the Board on such forms as may be prescribed by the Board. If the rollover is for the benefit of another Beneficiary, the Beneficiary to whose Account the funds are being transferred must be a Member of the family of the original Beneficiary. Any rollover under this Rule shall be administered in accordance with the applicable rollover provisions of the Internal Revenue Code. Any rollover made under this paragraph shall be equal to the amount requested, not to exceed the Redemption value of the Account plus Matching contributions, but minus any applicable fees charged by the Board. The Redemption value of the Account shall be determined as of the date the rollover is made. The rollover of the Matching contributions shall be subject to the limitations contained in Rule 1700-05-03-.06.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805, § 49-7-811, § 49-7-812 and § 65-5-113(c). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Repeal and new rule filed April 11, 2014; effective September 28, 2014.

1700-05-03-.09 NO GUARANTEE OF A MATCHING CONTRIBUTION.

- (1) Notwithstanding any provision of these Rules to the contrary, neither the State, the Board, the Matching grant incentive program, nor the Eligible college savings program guarantees that any Beneficiary will receive a Matching contribution. The availability or the amount of the Matching contributions authorized by these Rules are subject to the appropriation of funds in each year's general appropriations act for the purposes set forth in these Rules.

Authority: Chapter 359 of the 2013 Public Acts codified in T.C.A. § 49-7-808(d), § 49-7-805 and § 65-5-113(c), and T.C.A. §§ 49-7-805(16), and 49-7-805(4). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011. Amendment filed April 11, 2014; effective September 28, 2014.

1700-05-03-.10 EXTENT OF AVAILABLE FUNDS.

- (1) In the event the Board receives more eligible applications for the Matching contribution than the amount of money appropriated by the general assembly during a given Qualifying period, the Board will award the Matching contribution to the first eligible applicants to apply until the available funds have been exhausted.
- (2) In the event excess appropriations remain in any given fiscal year after providing the Matching contributions to all eligible applicants, the excess funds will be transferred to the educational services plan established in Chapter 1700-05-01 of the Official Compilation of the Rules and Regulations of the State of Tennessee, unless the general assembly otherwise directs.

Authority: T.C.A. §§ 49-7-805(16), and 49-7-805(4). **Administrative History:** Original rule filed October 1, 2010; effective March 31, 2011.

* 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)
David H. Lillard, Jr.	X				
Justin Wilson	X				
Tre Hargett	X				
Joseph Wiley				X	
Larry Martin	X				
David Gregory	X				
Joseph DiPietro	X				
Mike Krause (Tennessee Higher Education Commission)				X	
Mike Krause (Tennessee Student Assistance Corporation)				X	

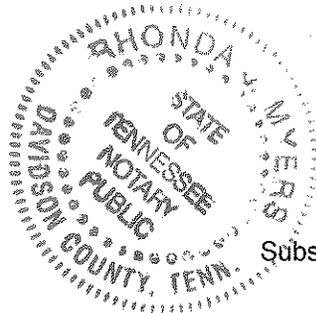
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Board of Trustees of the Baccalaureate Education System Trust Fund Program on 10/05/2016, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed 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: 11/16/16

Signature: Alison Cleaves

Name of Officer: Alison Cleaves

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 11-16-16

Notary Public Signature: Rhonda Myers

My commission expires on: 3-7-17

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. Slattery III
 Herbert H. Slattery III
 Attorney General and Reporter
11/21/2016
 Date

Department of State Use Only

Filed with the Department of State on: 4/17/17

Effective on:

7/16/17



Tre Hargett
Secretary of State

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