

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture

DIVISION: Regulatory Services

SUBJECT: Livestock Markets

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 44-2-102

EFFECTIVE DATES: June 30, 2012 through June 30, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The proposed rules would establish basic facility, sanitation, and animal care standards for livestock markets. The agency reports that the overall aim of these rules is to make livestock markets across the state more consistent in these respects.

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) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Small businesses meeting the definition of "livestock market" under Tenn. Code Ann. § 44-11-101 would bear the cost of and/or directly benefit from the proposed rules.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are 42 licensed livestock markets in Tennessee. The number of unlicensed livestock markets is not known.

- (3) 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:

There will be no projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rules.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Some livestock markets will have to spend money to comply with the proposed rules. Some are already in compliance. The probable effect will vary on a case-by-case basis.

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

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

- (6) Comparison of the proposed rule with any federal or state counterparts:

Federal regulations prohibit the movement of diseased livestock and require facilities, premises and means of conveyance used in connection with the interstate movement of livestock to be maintained in a clean and sanitary condition. USDA-APHIS-approved livestock facilities are required to keep records and be well-constructed, well-lighted and maintained in a sanitary condition and in a state of good repair. Indiana has similar regulations, among other states.

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

As most if not all livestock markets would qualify as small businesses under Tenn. Code Ann. § 4-5-102(13), exempting small businesses would undermine the purposes of the proposed rules.

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Sequence Number: 01-18-12
 Rule ID(s): 5138
 File Date: 01/31/2012
 Effective Date: 06/30/2012

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 Agriculture
Division:	Division of Regulatory Services
Contact Person:	Keith Hodges
Address:	P.O. Box 40627, Nashville, Tennessee
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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
0080-02-09	Regulations Concerning Livestock Markets
Rule Number	Rule Title
0080-02-09-.01	Annual Inspection.
0080-02-09-.02	Livestock Market – Facilities.
0080-02-09-.03	Sanitation.
0080-02-09-.04	Waste Disposal.
0080-02-09-.05	Care and Handling.

Chapter 0080-02-09
 Regulations Concerning Livestock Markets

New Rules

- 0080-02-09-.01 Annual Inspection.
 0080-02-09-.02 Livestock Market – Facilities.
 0080-02-09-.03 Sanitation.
 0080-02-09-.04 Waste Disposal.
 0080-02-09-.05 Care and Handling.

(1) Livestock markets shall be inspected at least annually and prior to the first issuance of a livestock

market license.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.02 Livestock Market – Facilities.

- (1) All livestock market operators shall provide and maintain adequate facilities for loading, unloading, holding, identifying, segregating and otherwise handling livestock. The minimum requirements are as follows:
 - (a) Pens shall have sufficient space and be of sufficient number to allow the safe and humane handling of all kinds of livestock moved through the facility.
 - (b) Floors of pens and alleyways shall be adequately drained, bedded with material sufficient to absorb animal waste, and free from holes and depressions.
 - (c) A separate pen(s) shall be provided for animals infected with a contagious, infectious or communicable disease, and shall be thoroughly cleaned and disinfected after each use.
 - (d) Suitably sized chutes, constructed of durable material, shall be provided for tagging or identifying animals. Such chutes shall be located to minimize interference with routine handling and movement of livestock through the market.
 - (e) Adequate lighting shall be provided in all areas of the market to allow close observation or inspection of animals, wherever they are confined on the premises.
 - (f) Adequate ventilation shall be provided to allow for the overall health and well-being of the livestock.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.03 Sanitation.

- (1) The livestock market and its surroundings (including yards, pens, alleyways, chutes and all other equipment used for receiving, yarding, handling and otherwise selling livestock) shall be kept in a clean and sanitary condition at all times.
- (2) All market-owned trucks, trailers or other market-owned conveyances used for transporting livestock shall be maintained in a sanitary condition at all times. The state veterinarian (or an authorized agent) may order any vehicle to be thoroughly cleaned and disinfected by the operator to prevent the spread of disease.
- (3) Cleaning and disinfecting agents and methods shall be approved by the state veterinarian.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.04 Waste Disposal.

- (1) Livestock market operators shall not allow sewage, drainage, waste water or trash to accumulate. Soiled bedding and manure or other waste solids shall be removed in a timely manner. Weeds and accumulated debris that could harbor rodents shall be eliminated.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.05 Care and Handling.

- (1) All livestock market operators shall maintain the following minimum standards of care and handling:
 - (a) Livestock kept at a livestock market for more than twenty-four (24) hours from the time of

receipt at the market must have access to feed and water.

- (b) Livestock must be moved with a minimum of excitement and discomfort to the animals. Cattle shall be cared for and handled in accordance with the Beef Quality Assurance program's guidelines, which are posted on the department's website at www.tn.gov/agriculture/regulatory/animals.shtml.
- (c) Non-ambulatory or disabled livestock must be handled using humane methods.
- (d) If euthanasia is required of any livestock, the procedure shall be performed in accordance with the American Veterinary Medical Association's Guidelines on Euthanasia, a link to which is posted on the department's website at www.tn.gov/agriculture/regulatory/animals.shtml.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

*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 Tennessee Department of Agriculture on 12/20/2011, and is in compliance with the provisions of TCA 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: December 20, 2011

Signature: *Julius T. Johnson*

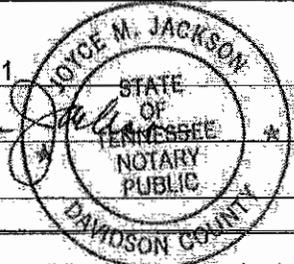
Name of Officer: Julius T. Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: December 20, 2011

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013



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.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

1-17-12

Date

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Commerce and Insurance
Division of Regulatory Boards

DIVISION: Private Investigation and Polygraph Commission

SUBJECT: Licensure and Continuing Education Requirements

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 62-26-205

EFFECTIVE DATES: May 8, 2012 through June 30, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

Rule 1175-01-.01 Definitions is amended by deleting the general reference to the statute and adding specific descriptions of "physical office location," "principal place of business" and "timely renewal." This will allow further expansion of the definition list in the future as needed as well.

Rule 1175-01-.03 Fingerprinting is amended to update the fingerprinting submittal process, relieve the Commission of any financial responsibility for processing such fingerprints required for application of license and to update the re-submittal process should an applicant submit "unclassifiable" fingerprints as defined by this rule.

Rule 1175-01-.04 Applicants for License is amended to adding five new paragraphs that coordinate the denial requirements with other regulatory agencies with similar requirements.

For the purpose of assessing the correct initial private investigation company and license fees, Rule 1175-04.11 License Fees is amended by adding a new paragraph requiring applying private investigation companies to pay additional fees for private investigator employees added after the initial application, but before the private investigation company license is issued, as if those additional private investigator employees were listed on the initial application.

For the purpose of assessing the correct renewal private investigation company and license fees, Rule 1175-04.12 Renewal Fees is amended by adding a new paragraph requiring renewing private investigation companies to pay additional fees for private investigator employees added after the renewal application, but before the renewed private investigation company license is issued, as if those additional private investigator employees were listed on the renewal application.

Rule 1175-01-.17 Retired Licenses is amended by rewriting the rule to adding the additional provisions that a retiring private investigator must retire with his or her license in good standing with the Commission, and that if that retiree is intending to return to active status, he or she must complete the continuing professional education requirements for the renewal period for which the retiree wishes to return to active status.

Rule 1175-01-.18 Exceptions to Applicability is amended by adding some new descriptions of occupations for which the licensing requirements do not apply; they are the activities of the National Insurance Crime Bureau, those performing services as a mortgage default inspector, persons employed as "mystery shoppers," and court reporters providing videographer services for depositions.

Rule 1175-01-.19 Evaluation of Required Experience is a new rule added to specifically detail the requirements and procedures for meeting the mandate of Tenn. Code Ann. § 62-26-206(6), which requires that a private investigation company must employ in some way a private investigator with at least 2,000 hours of "compensated, verifiable, investigative experience satisfactory to the commission or has one (1) year of applicable, related experience or education in a related area of study approved by the commission."

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is rewritten to establish that if the required continuing education credit is not completed within 30 days of the license expiration date, the renewal application will not be accepted or approved. The rule also removes the disciplinary nature of the rule, and instead requires that all late fees assessed during this 30-day period must be paid in full before a renewal license is issued.

Rule 1175-04-.06 Misconduct is rewritten to further define the application of misconduct to matters of misrepresentation and advertising.

Rule 1160-02-.02 Basic Requirements for polygraph examiners is amended to change "annual renewal" to "biennial renewal" and to expand the 12 hours of continuing education during that previous time to 24 credits hours over the two-year renewal period.

Rule 1160-02-.04 Control and Reporting System for polygraph examiners is amended to update the form for submitting continuing education, to require licensees to retain support for such reports for two years after submission and to inform licensees that the Commission is authorized to conduct periodic verifications of this information.

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Sequence Number: _____
 Rule ID(s): REDLINE
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Private Investigation and Polygraph Commission
Division:	Department of Commerce and Insurance, Division of Regulatory Boards
Contact Person:	Robert Herndon, Attorney for the Commission
Address:	500 James Robertson Parkway, Nashville, Tennessee
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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
1175-01	Private Investigation and Polygraph Commission
Rule Number	Rule Title
1175-01-.03	Finger Printing
1175-01-.04	Applicants for Licenses
1175-01-.11	License Fees
1175-01-.12	Renewal Fees
1175-01-.17	Retired Licenses
1175-01-.18	Exceptions to Applicability
1175-01-.19	Evaluation of Required Experience
Chapter Number	Chapter Title
1175-02	Continuing Professional Education
Rule Number	Rule Title
1175-02-03	Qualifying Programs
Chapter Number	Chapter Title
1175-04	Rules of Professional Conduct and Standards of Practice
Rule Number	Rule Title
1175-04-.06	Misconduct
Chapter Number	Chapter Title
1160-02	Polygraph Examiner Continuing Education
Rule Number	Rule Title
1160-02-.02	Basic Requirements
1160-02-.03	Qualifying Programs
1160-02-.04	Control and Reporting Systems

Chapter 1175-01
Private Investigation and Polygraph Commission

Amendments

Paragraph (1) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

~~(1) An applicant shall furnish the Commission with three (3) sets of classifiable fingerprints with his or her application for the purpose of allowing the Commission to forward the fingerprints to the Tennessee Bureau of Investigation as required by T.C.A. §§ 62-26-205 and 62-26-208. An applicant shall be deemed to have furnished the Commission with three (3) sets of classifiable fingerprints if he or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the Tennessee Bureau of Investigation and to forward a classifiable hard copy of the applicant's fingerprints to the Commission. The Commission shall notify every applicant in writing of the name, address and telephone number of any company approved by the Commission to provide such a service. An applicant shall comply with the following requirements regarding payment for the fingerprinting service:~~

~~(a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant. In the event an applicant chooses to send classifiable fingerprints directly to the Commission, the Commission shall pay the Tennessee Bureau of Investigation and the Federal Bureau of Investigation processing fees as required by the respective agencies. The Commission shall not be responsible for paying processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation should the applicant choose to cause a private investigation company to electronically transmit his or her fingerprints to the respective law enforcement agencies.~~

~~(b) An applicant shall be responsible for paying fees required by a private investigation company that transmits fingerprints on behalf of the applicant. In the event an applicant chooses to have a private investigation company transmit his or her fingerprints to the Tennessee Bureau of Investigation and the Federal Bureau, the applicant shall be responsible for paying any fees associated with processing such fingerprints to the respective agency. An applicant may make arrangements for the private company to pay processing fees to the Tennessee Bureau of Investigation and/or the Federal Bureau of Investigation on his or her behalf.~~

~~(c) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.~~

(1) An applicant shall furnish the commission with three (3) sets of classifiable fingerprints with his or her application for the purpose of allowing the commission to forward the fingerprints to the Tennessee Bureau of Investigation (TBI) and Federal Bureau of Investigation (FBI) as required by T.C.A. §§ 62-26-206 and 62-26-208. An applicant shall be deemed to have furnished the commission with three (3) sets of classifiable fingerprints if he or she causes a private company contracted by the State to electronically transmit the applicant's classifiable prints directly to the TBI and FBI and to forward a classifiable hard copy of the applicant's fingerprints to the commission on standard TBI/FBI applicant cards. The commission shall notify every applicant in writing of the name, address and telephone number of any company contracted by the State to provide such a service. All private investigator and investigations company applicants shall comply with the following requirements regarding payment for the fingerprinting service:

(a) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant;

- (b) If the applicant chooses to request that the commission process the fingerprint cards, then the applicant shall submit with his or her application three (3) sets of classifiable fingerprints on cards provided by the Commission for processing through the TBI and FBI. The applicant shall pay to the Commission all processing fees established by the TBI and FBI.
- (c) If the applicant chooses to use the services of a company that has contracted with the state to provide electronic fingerprinting service, then the applicant shall make the arrangements for the processing of his or her fingerprints with the company directly and shall be responsible for payment of any fees associated with processing of fingerprints to the respective agency.
- (d) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the Commission all processing fees established by the TBI and FBI.
- (e) Applicants shall in all cases be responsible for paying application fees as established by the Commission regardless of the manner of fingerprinting the applicant chooses.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Paragraph (2) of Rule 1175-01-.03 Finger Printing is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- ~~(2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the Commission, or the Tennessee Bureau of Investigation, the Commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable" means that the electronic scan or the print of the person's fingerprints cannot be read and therefore, cannot be used to identify the person.~~
- (2) In the event that an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable in nature to the commission, or the Tennessee Bureau of Investigation (TBI) or Federal Bureau of Investigation (FBI), the commission may refuse to issue the requested license. For the purposes of this rule, "unclassifiable fingerprints" means that the electronic scan or the print of the person's fingerprints cannot be read, and therefore cannot be used to identify the person. Should an applicant's fingerprints be rejected by the TBI or FBI, the applicant shall pay any fees assessed by the TBI or FBI for resubmission.

Authority: T.C.A. §§62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.04 Applicants for Licenses is amended by adding new subparagraphs (5), (6), (7), (8) and (9) that shall read:

- (5) An applicant denied for material misstatement is not eligible to reapply for licensure for a period of six (6) months from the date of denial. Appeals must be submitted to the commission in writing within thirty (30) days from the denial. All documentary dispositions and required court documents must be provided prior to a scheduled appeal hearing before the commission.
- (6) Disposition of the following crimes or actions taken by an authority having jurisdiction may disqualify an applicant, subject to the discretion of the commission:
 - (a) Conviction by any local, state, federal, or military court of any crime involving the illegal sale, manufacture, distribution, or transportation of a controlled substance, drug, or narcotic;
 - (b) Conviction of any felony;

- (c) Conviction of a crime involving unlawful breaking and entering, burglary, larceny, or arson;
 - (d) Conviction as a habitual criminal;
 - (e) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C.A. § 921(33);
 - (f) Any misdemeanor conviction involving:
 - 1. Shooting a firearm or other weapon;
 - 2. Shoplifting; or
 - 3. Assault and battery or other act of violence against persons or property.
- (7) An applicant may be disqualified for licensure for habitual drunkenness; narcotics addiction or dependence; and/or unlawful use of or addiction to any controlled substance, as defined in section 102 of the Controlled Substances Act, 21 U.S.C.A. § 902(6). This prohibition includes any person who is a current user of a controlled substance. The commission may draw an inference of current use from recent use or possession of a controlled substance, e.g., positive drug test upon arrest or during probation within the past year; a conviction for use or possession of a controlled substance within the past year; or multiple arrests for such offenses within the past five (5) years if the most recent arrest occurred within the past year.
- (8) An applicant may be disqualified for licensure for having been discharged from the armed forces under conditions less than honorable.
- (9) An applicant may be disqualified for licensure for being subjected to a court order restraining the applicant from committing an act of domestic violence. The order must have been issued after a hearing during which the person restrained received actual notice of the hearing and had an opportunity to participate in any proceedings. The restrained individual need have only an opportunity to participate in any proceedings; consequently, failure to appear at the proceeding or consent to the entry of the order without a hearing does not affect this prohibition. Consent orders and orders entered by a court of competent jurisdiction upon the applicant's failure to appear qualify under this prohibition.

Authority: T.C.A. §§ 62-26-205, 62-26-206, 62-26-208, 62-26-217, and 62-26-303.

Rule 1175-01-.11 License Fees is amended by adding a new subparagraph (4) that shall read:

- (4) For the purposes of assessing the correct investigations company application and license fees, the employees referenced in T.C.A. § 62-26-208(a) and (b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated with the investigations company. Investigations company license applicants whose licenses have not yet been issued and who prior to such issuance add any number of investigators above that number listed when application was made shall, prior to issuance, pay all application and license fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the initial application. An individual who applies for an investigations company license but is not a licensed private investigator and who at the time of issuance of that license has not yet employed a licensed private investigator shall be considered a sole practitioner for the purpose of issuing the license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, and 62-26-303.

Rule 1175-01-.12 Renewal Fees is amended by adding new subparagraphs (3) and (4) that shall read:

- (3) For the purposes of assessing the correct investigations company renewal fees, the employees referenced in T.C.A. § 62-26-211(b) and this rule shall be identified as licensed private investigators, private investigator license applicants and private investigator apprentices affiliated

with the investigations company. Investigations company license renewal applicants whose licenses have not yet been renewed and who prior to such renewal add any number of investigators above that number listed when renewal application was made shall, prior to renewal, pay all renewal fees which would have been due had the additional private investigators been listed on the notarized statement submitted with the renewal application. Upon the employment of licensed private investigators, an individual holding an investigations company license as a sole proprietor pursuant to paragraph (4) of rule 1175-01-.11 shall not be counted in the total number of private investigators employed by that investigations company for the purpose of assessing the correct investigations company renewal fee.

- (4) All late fees must be paid within the thirty (30) days prescribed by T.C.A. § 62-26-211(c).

Authority: T.C.A. §§62-26-205, 62-26-208, 62-26-211, and 62-26-303.

Rule 1175-01-.17 Retired Licenses is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.17 shall read:

~~A private investigator who has retired his/her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.~~

- (1) A private investigator who has retired his or her license shall remain subject to the disciplinary provisions contained in T.C.A. § 62-26-217 and shall be obliged to comply with the notice provisions contained in T.C.A. § 62-26-213.
- (2) For the purpose of retirement of a private investigator license, the licensee must be in good standing with the commission and in compliance with all applicable law and rules.
- (3) Prior to returning the license to an active status, the licensee must have an affiliation with a licensed investigations company and will be required to complete the continuing professional education requirements for the renewal period from which the license is returned to active status.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-211, 62-26-225, and 62-26-303.

Rule 1175-01-.18 Exceptions to Applicability is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, rule 1175-01-.18 shall read:

~~For purposes of T.C.A. § 62-26-223(b)(3)(A), the term "employee" shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.~~

- (1) For purposes of T.C.A. § 62-26-223(b)(3)(A), the term "employee" shall be defined as an individual to whom wages are paid by the attorney or law firm and from whose wages Federal Income Tax and/or Federal Insurance Contributions Act monies are withheld by the attorney or law firm.
- (2) The activities performed by the National Insurance Crime Bureau, a non-profit organization, are not required to be performed by a licensed private investigator.
- (3) Persons performing the duties of a mortgage default inspector are not required to obtain a private investigator license provided that these persons only interview the homeowner/mortgagor to determine the reason for delinquency in payments. Additionally, if the property is vacant or appears to be so, the company representative performing these duties may talk to neighbors to verify occupancy status of the subject property and, after completion of duties, may file a report with the mortgage company detailing the findings.
- (4) Persons who perform the services of a "mystery shopper" or who are employed as a "mystery shopper" are not required to be licensed as a private investigator, as long as the "mystery shopper" is not performing private investigation services as defined in T.C.A. § 62-26-202(6) and (10). A mystery shopper is someone who is employed by a retail organization to assess the functioning of the retail organization, including but not limited to customer service and product quality.

- (5) Court reporters and persons who perform videographer services for depositions are not required to obtain a private investigator license.

Authority: T.C.A. §§ 62-26-205, 62-26-208, 62-26-223, and 62-26-303.

Chapter 1175-01
Private Investigation and Polygraph Commission

New Rules

Table of Contents

1175-01-.19 Evaluation of Required Experience

1175-01-.19 Evaluation of Required Experience.

- (1) An applicant for an investigations company license may meet the experience requirement of T.C.A. § 62-26-206 by submitting a detailed résumé, a sworn statement that the applicant has the minimum amount of experience for the appropriate designation, and verification of two thousand (2,000) hours of compensated investigative experience. Acceptable proof of experience includes documentation from previous employers, submitted on each previous employer's or agency letterhead, stating the number of hours for which the applicant was compensated and a detailed job description showing actual work experience as a private investigator. The commission may consider other proof in its discretion.
- (2) An applicant for an investigations company license may meet the education requirement of T.C.A. § 62-26-206 by submitting to the commission transcripts from an accredited college or university showing the course of study along with the number of hours completed and evidence of any degree earned. The commission has the discretion to review any submitted degree programs and fields of study for acceptability.
- (3) Military service may be acceptable experience to meet these qualifications if the applicant documents two thousand (2,000) hours of verifiable, compensated experience while serving in an investigative capacity with any federal, U.S. armed forces, state, county or municipal law enforcement agency or any other governmental agency.
- (4) Out-of-state applicants who own or operate their own investigations company, and who are not required to hold a license or registration in their state of residence, must provide the following documentation:
 - (a) A city, county or state business license showing the issuance and expiration date;
 - (b) A federal tax identification;
 - (c) Federal tax returns; and/or
 - (d) Corporate charter information documenting which state the applicant corporation was originally chartered in and the date on which the applicant corporation was chartered.
 - (e) The commission may consider documentation other than the above as acceptable in its discretion.
- (5) A "letter of good standing" is required from each jurisdiction for which the applicant holds a license or registration. The "letter of good standing" must detail how the applicant qualified for the license or registration, the date on which the license or registration was issued and the current license or registration status. A statement regarding any disciplinary action taken against the license or registration in any applicable jurisdiction is also required.

Authority: T.C.A. §§ 62-26-206 and 62-26-303.

Chapter 1175-02
Continuing Professional Education

Amendments

Rule 1175-02-.08 Failure to Complete Required Continuing Professional Education is amended by deleting the text of the rule in its entirety and substituting the following language so that, as amended, rule 1175-02-.08 shall read:

~~Licensees who fail to complete the required number of continuing professional education hours each calendar year, shall be denied renewal of their license and may face additional disciplinary action in keeping with these rules and the Private Investigators Licensing and Regulatory Act.~~

If the required continuing professional education is not completed on or prior to the expiration date of the license, a late fee will be assessed. If the required continuing education is not completed within thirty (30) days of the license expiration date, the renewal application will not be accepted or approved. If a late fee is assessed, no license will be approved until such late fee is paid in full.

Authority: T.C.A. §§62-26-205, 62-26-208, 62-26-211, 62-26-217, 61-26-225, and 62-26-303.

Chapter 1175-04
Rules of Professional Conduct and Standards of Practice

Amendments

Paragraph (5) of rule 1175-04-.06 Misconduct is amended by deleting the text of the paragraph in its entirety and substituting instead the following so that, as amended, paragraph (5) of rule 1175-04-.06 shall read:

~~(5) The licensee shall not falsify or permit misrepresentation of his/her or his/her associates' academic or professional qualifications. He/she shall not misrepresent or exaggerate his/her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications and his/her work.~~

(5) Misrepresentation of qualifications and identity.

(a) The licensee shall not falsify or permit misrepresentation of his or her or his or her associates' academic or professional qualifications. He or she shall not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures, or his or her past accomplishments with the intent and purpose of enhancing his or her qualifications.

(b) Production and/or use of any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers which do not bear the true name(s) under which the licensee is licensed by the commission as a private investigator or an investigations company shall constitute misrepresentation. The true name of the licensee private investigator or investigations company shall accompany any D/B/As, A/K/As and alias names under which the licensee operates.

(c) Failure by a private investigator to indicate the private investigation company to whom the private investigator is affiliated on any printed matter or promotional materials, including but not limited to radio, television, internet or print advertising, letterhead, business cards or flyers shall constitute misrepresentation.

Authority: T.C.A. §§ 62-26-217 and 62-26-303.

Polygraph Examiners
Chapter 1160-02
Continuing Education

Amendments

Rule 1160-02-.02 Basic Requirements is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, rule 1160-02-.02 shall read:

Rule 1160-02-.02 Basic Requirements

- (1) ~~Every licensed polygraph examiner seeking annual renewal of a license, for 1990 and thereafter, shall as a prerequisite for renewal of such license, report with the license renewal form satisfactory evidence of having completed at least twelve (12) credit hours of qualified continuing education in the subject areas of polygraph examinations, and/or related fields.~~
- (2) ~~Notwithstanding paragraph (1) of this rule, no polygraph examiner shall be required to complete any credit hours or continuing education during the calendar year in which he or she first becomes licensed.~~

Every licensed polygraph examiner seeking biennial renewal of a license shall, as a prerequisite for renewal of such license, provide satisfactory evidence of having completed at least twenty-four (24) credit hours of qualified continuing education in the subject area of polygraph examinations and/or related fields.

Authority: T.C.A. §§ 62-27-105 and 62-27-129.

Rule 1160-02-.04 Control and Reporting System is amended by deleting the text of the rule in its entirety and substituting instead the following so that, as amended, rule 1160-02-.04 shall read:

Rule 1160-02-.04 Control and Reporting System

- (1) ~~Each licensee shall submit on the following form a signed statement setting forth the continuing education programs in which he has participated during the renewal period:~~

~~_____ VERIFICATION OF CONTINUING EDUCATION~~

~~I, _____, do attest that on _____ I attended _____
hours of seminar at _____.~~

~~Enclosed is a copy of my certificate and the agenda of the seminar.~~

~~I certify that the above information is true and correct.~~

~~_____
SIGNATURE OF EXAMINER _____ DATE~~

~~Such licensee shall retain documentation supporting such statement for at least two (2) years subsequent to the date of submission.~~

- (2) ~~If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (1) of this rule are disapproved, the Tennessee Private Investigation and Polygraph Commission shall notify such licensee of the reason for the disapproval. The Tennessee Private Investigation and Polygraph Commission may allow a specified period for correction of the deficiencies noted.~~

- (3) ~~The Tennessee Private Investigation and Polygraph Commission will verify information submitted by licensees under this rule on a test basis.~~

- (1) Each licensee shall submit the following form as a prerequisite for renewal, which must include a signed statement setting forth the continuing education programs in which the licensee has

participated during the renewal period:

VERIFICATION OF CONTINUING EDUCATION

I, _____, attest that on the following dates I attended a total of _____ hours of continuing professional education.

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Date: _____ Seminar Sponsor: _____

Hours Completed: _____ Location: _____

Enclosed are copies of my certificates and the seminar agendas for each session attended.

I certify that the above information is true and correct.

SIGNATURE OF POLYGRAPH EXAMINER

DATE

- (2) Such licensee shall retain documentation supporting such statement for at least two (2) years subsequent to the date of submission.
- (3) If any continuing education credit hours claimed in a statement submitted by a licensee pursuant to paragraph (1) of this rule are disapproved, the Tennessee Private Investigation and Polygraph Commission shall notify such licensee of the reason for the disapproval. The Tennessee Private Investigation and Polygraph Commission may allow thirty (30) days for correction of the deficiencies noted.
- (4) The Tennessee Private Investigation and Polygraph Commission will verify information submitted by licensees under this rule on a periodic basis.

Authority: T.C.A. §§ 62-27-105 and 62-27-109.

* 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)
Minnie Ann Lane Chair	X				
Kendall Shull Vic-Chair	X				
Janice D. Holt				X	
David W. Horton				X	
Audrey J. Moore	X				
Paul A. Ritch	X				
Alan G. Rousseau	X				
David L. Schenkel	X				
Walter Valentine	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Private Investigation and Polygraph Commission on 04/15/2011, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 01/25/2011

Rulemaking Hearing(s) Conducted on: (add more dates). 04/15/2011

Date: 1.10.2012

Signature: *Robert E. Hernandez*

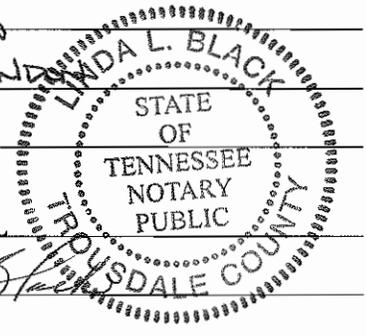
Name of Officer: ROBERT E. HERNANDEZ

Title of Officer: ATTORNEY

Subscribed and sworn to before me on: JAN. 10, 2012

Notary Public Signature: *Linda L. Black*

My commission expires on: 5/6/2012



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.

Robert E. Cooper, Jr.
Attorney General and Reporter

Date

Department of State Use Only

SS-7039 (July 2010)

10

RDA 1693

17

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Transportation
<u>DIVISION:</u>	Maintenance
<u>SUBJECT:</u>	Manual on Uniform Traffic Control Devices
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 54-5-108
<u>EFFECTIVE DATES:</u>	July 29, 2012 through June 30, 2013
<u>FISCAL IMPACT:</u>	No increase in state revenue is expected from the promulgation of this rule. There will be increased expenditures for the agency in excess of \$500,000, which represents less than 2% of the agency's annual budget. This estimate is based on the cost of upgrading, replacing, or installing traffic control devices on roadways under the agency's jurisdiction.

STAFF RULE ABSTRACT:

In general, the proposed rule adopts the Federal Highway Administration (FHWA) Manual on Uniform Traffic Control Devices (MUTCD), 2009 Edition, as the manual for the design and location of signs, signals, markings, and for posting traffic regulations on all public streets and highways in the State of Tennessee, as well as on private roads where the public is allowed to travel without access restrictions. The MUTCD is the national standard for traffic control devices, and all States are required to adopt a manual for traffic control devices in substantial conformity with the MUTCD. However, the Department has declined to adopt two specific provisions of the 2009 Edition relating to the role of engineering judgment in applying the MUTCD, and has instead substituted the prior language in the 2003 Edition, as authorized by the FHWA.

The new MUTCD revises various standards, guidance, options, and supporting information relating to traffic control to expedite traffic operations, promote uniformity, improve highway safety, and incorporate technology advances in the selection and application of traffic control devices. Important changes to the MUTCD include:

- 1) Maintaining minimum sign retroreflectivity;
- 2) Installation of crashworthy signs on high speed roadways;
- 3) Installation of ONE WAY signs at select locations;
- 4) Installation of various horizontal alignment warning signs;
- 5) Requirements for yellow change and red clearance intervals;

- 6) Requirements for pedestrian intervals and signal phases;
- 7) Worker safety considerations;
- 8) Requirements for high-visibility apparel for adult crossing guards; and
- 9) Requirements for railroad grade crossings.

There has been much concern over retroreflectivity standards and street sign issues and how they will impact local governments. After nearly two years of state and local governments voicing concerns and months of reevaluation by the Federal Highway Administration, the FHWA has pending rule revisions that would eliminate or modify 46 of the compliance dates directed by the MUTCD.

When pending MUTCD revisions become final rules in the Federal Register, Tennessee will adopt them via the rulemaking process. Based on "Notice of Proposed Amendments" issued by FHWA and federal rulemaking process, it is expected the revisions will become final rules early next year.

In general, pending FHWA rule revisions will allow local governments to make decisions on when to replace or upgrade existing noncompliant devices in accordance with their own local environmental conditions and competing priorities for safety-related measures in the context of limited budgets.

The revisions allow for replacement of most noncompliant traffic control devices in the ordinary course of routine maintenance and/or upon the expiration of the useful life of such devices. However, the elimination of a compliance date does not eliminate the regulatory requirement to comply with the MUTCD standards. The MUTCD standards shall apply to any new installations of traffic control devices, but firm fixed dates for replacing existing noncompliant devices are eliminated.

Summary:

- 1) The revised compliance dates do not require any signs to be replaced by a given date, only that agencies implement an assessment or management method for maintaining sign retroreflectivity by a certain date.
- 2) Revised compliance dates are expected to provide agencies with an estimated additional 1 to 2 years to implement their chosen assessment or management method.
- 3) FHWA is to make new compliance dates apply to implementing an assessment or management method for only regulatory and warning signs.
- 4) Street name signs are not required to be replaced by a certain date based on retroreflectivity standards or sign size. If street name signs are noncompliant based on retroreflectivity standards or sign size, they can be replaced considering local priorities, routine maintenance and budgetary planning for sign replacements based on limited resources.

Redline Version of Rule:

1680-03-01-.02, Adoption of Manual on Uniform Traffic Control Devices.

~~The current edition of the United States Department of Transportation, Federal Highway Administration, *Manual on Uniform Traffic Control Devices for Streets and Highways*, 2003 Edition, is hereby adopted in its entirety and incorporated herein by reference.~~

The current edition of the United States Department of Transportation, Federal Highway Administration, *Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)*, 2009 Edition, is hereby adopted in its entirety and is incorporated herein by reference, with the following exceptions:

- (1) Section 1A.09, Engineering Study and Engineering Judgment, of the 2009 Edition is not adopted and the following text, including language copied from the Guidance portion of Section 1A.09 of the 2003 Edition of the MUTCD, shall be adopted in its place:

Section 1A.09 Engineering Study and Engineering Judgment

01 Definitions of an engineering study and engineering judgment are contained in Section 1A.13.

Standard:

02 This Manual describes the application of traffic control devices, but shall not be a legal requirement for their installation.

Guidance:

03 The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment.

04 Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement. Jurisdictions with responsibility for traffic control that do not have engineers on their staffs should seek engineering assistance from others, such as the State transportation agency, their County, a nearby large City, or a traffic engineering consultant.

Support:

05 As part of the Federal-aid Program, each State is required to have a Local Technology Assistance Program (LTAP) and to provide technical assistance to local highway agencies. Requisite technical training in the application of the principles of the MUTCD is available from the State's Local Technology Assistance Program for needed engineering guidance and assistance.

- (2) The definition of Standard in Section 1A.13, Definitions of Headings, Words, and Phrases in the 2009 Edition is not adopted and the following text shall be adopted in its place:

Section 1A.13 Definitions of Headings, Words, and Phrases in this Manual

Standard:

01 When used in this Manual, the text headings of Standard, Guidance, Option, and Support shall be defined as follows:

A. Standard—a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb “shall” is typically used. The verbs “should” and “may” are not used in Standard statements. Standard statements are sometimes modified by Options.

B. Guidance—a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements are labeled, and the text appears in unbold type. The verb “should” is typically used. The verbs “shall” and “may” are not used in Guidance statements. Guidance statements are sometimes modified by Options.

C. Option—a statement of practice that is a permissive condition and carries no requirement or recommendation. Option statements sometime contain allowable modifications to a Standard or Guidance statement. All Option statements are labeled, and the text appears in unbold type. The verb “may” is typically used. The verbs “shall” and “should” are not used in Option statements.

D. Support—an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements are labeled, and the text appears in unbold type. The verbs “shall,” “should,” and “may” are not used in Support statements.

The remaining text of Section 1A.13, Definitions of Headings, Words, and Phrases in this Manual, in the 2009 Edition of the MUTCD is adopted and incorporated herein by reference.

- (3) The United States Department of Transportation, Federal Highway Administration (FHWA), has authorized State MUTCDs to adopt the foregoing language in conformance with the 2003 MUTCD definition of Standard and the related Section 1A.09 Guidance statements, as provided in paragraphs (1) and (2) herein, while remaining in substantial compliance with the 2009 Edition of the MUTCD. See FHWA Official Interpretation—Manual on Uniform Traffic Control Devices, 1(09)-1 (I) – Definition of Standard Statement, October 1, 2010.

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Title V Emission Fees

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-201-101 et seq.

EFFECTIVE DATES: May 22, 2012 through June 30, 2013

FISCAL IMPACT: The agency has provided the following information:

State revenues are expected to increase by approximately \$765,000 for FY 2010-2011; however, expected revenues are approximately \$837,854 less than FY 2009-2010 revenues. New, more stringent federal regulations have resulted in emissions reductions upon which fees are based. These new regulations require increased manpower from the Division to regulate and enforce, so Division expenditures are expected to increase. No significant financial impact is expected on local governments.

STAFF RULE ABSTRACT: Rule 1200-03-26-.02 Construction and Annual Emission Fees is being revised by increasing Title V annual emission fees and changing the dates by which Title V fees are due. These fees were decreased last year (FY 2010-2011) due to an excess fund balance, and this proposed rule raises the fees to the previous FY 2009-2010 levels. The agency reports that without this increase, the program is at risk of not meeting its budget for FY 2011-2012. This could result in the state's loss of the Title V program and/or the application of the federal presumptive minimum fee, which is currently \$45.55 per ton of emissions.

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.

This rulemaking amendment to subparagraph (d) of paragraph (9) of rule 1200-03-26-.02 Construction and Annual Emission Fees is federally mandated and, hence, exempt from the provisions of the Regulatory Flexibility Act of 2007, Acts 2007, § 6 of Public Chapter 464. The rule subject to this amendment is part of the requirements of § 502(b)(3)(A) of the Federal Clean Air Act which is the source of the requirement for Tennessee to collect "an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title".

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 this amended rule will not have a financial impact on local governments.

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.

Comment: The Tennessee Chamber of Commerce & Industry, on behalf of member industries, appreciates this opportunity to present comments on the proposed fee increases. As a threshold matter, TCCI and its members very much appreciate the Department's efforts to look at ways to run the Title V Program at cost well below EPA's presumptive fee level. We realize that your efforts to minimize program costs require you to conduct the workload analysis to justify lower fee levels to EPA. As it is very difficult for us to assess appropriateness of level of permit fees without prior expenditure information and the Workload Analysis, the Chamber appreciates very much you, Quincy Styke, and Lacey Hardin meeting with us and sharing updated information and additional background data to allow for a better understanding of the Workload Analysis and the new proposed level of Title V fees for 2011-2012. The Chamber supports a fee level that is predicated on a tonnage fee and a base charge for minimum fees of no greater than necessary to fund the projected/authorized expenditures for Fiscal Year 2011-2012.

The Chamber recognizes the Title V program to be mandated and is to be self-supporting. We also understand that predicting the exact tonnages that will be "generated" by Title V sources is an art and not a science and those numbers have trended down in recent years. Likewise, we do understand that the fees to be imposed by regulation of the Board must be sufficient to fund a required program; however, in these difficult economic times, we do not desire to generate and accumulate excess fund reserves, which may become the target for some other administrative use by government. Likewise, in the funding needs analysis, we remain concerned about the growth of administrative overhead costs charged to the Title V program as it continues to increase and we do desire that the administrative overhead areas should be reviewed thoroughly and not be increased simply because the program expenditures may be increasing.

Based on the above comments, the Chamber supports the proposed Title V fee increases included in today's Public Hearing on Rule 1200-03-26-.02. We appreciate the opportunity to present these comments and we appreciate your consideration.

The Chamber reserves an opportunity to present oral comments, pursuant to T.C.A. 4-5-204(c), to the Board prior to their consideration and adoption of new fee rules for Fiscal Year 2011-2012.

Response: The Tennessee Division of Air Pollution Control thanks the Chamber for their comments and acknowledges that the Division will continue to operate the agency in the most efficient method and justify it by use of our Workload Analysis.

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 Nashville, TN 37243
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For Department of State Use Only

Sequence Number: REDLINE
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Lacey J. Hardin
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0554
Email:	Lacey.Hardin@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
1200-03-26	Administrative Fees Schedule
Rule Number	Rule Title
1200-03-26-.02	Construction and Annual Emission Fees

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(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://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 1200-03-26 Administrative Fees Schedule

Subparagraph (b) of paragraph (1) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (b) in its entirety and replacing it with the following so that, as amended, subparagraph (b) shall read as follows:

- (b) Such costs shall include, but not be limited to, costs associated, with review of applications and reports, issuance of required permits and associated inspections of sources, unit observation, review and evaluation of monitoring results (stack and/or ambient), modeling, and costs associated with any necessary enforcement actions (excluding penalties assessed).

Subparagraph (e) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (e) in its entirety and replacing it with the following so that, as amended, subparagraph (e) shall read as follows:

- (e) Any responsible official, who disagrees with the calculation or the applicability of the fee may petition the Tennessee Air Pollution Control Board (Board) for a hearing. In order to perfect a hearing, a petition for a hearing together with the total amount of the fee due must be received by the Technical Secretary of the Board not later than fifteen (15) days after the due date. Such hearing shall be in accordance with contested case provisions set forth in Title 4, Chapter 5, T.C.A. If the annual emission fee paid was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the emission fee was paid.

Subparagraph (g) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (g) in its entirety and replacing it with the following so that, as amended, subparagraph (g) shall read as follows:

- (g) Any responsible official impacted by the decision in subparagraph (f) above of this paragraph who disagrees with such decision may petition the Tennessee Air Pollution Control Board for a hearing. The hearing shall be in accordance with contested case provisions as set forth in Title 4, Chapter 5, T.C.A. 4-5-301 et seq.

Subparagraph (b) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (b) in its entirety and replacing it with the following so that, as amended, subparagraph (b) shall read as follows:

- (b) With the exception of changes received during the initial construction permit evaluation period (i.e. prior to the certified letter denoting application completeness), all revisions under subparagraph ~~1200-03-26-.02(4)(e)~~ of this rule which result in an increase in allowable emissions sought by the applicant or an increase in actual emissions declared in the original application for a permit shall be subject to a fee equal to one-half of the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500. This fee is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.

Subparagraph (c) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (c) in its entirety and replacing it with the following so that, as amended, subparagraph (c) shall read as follows:

- (c) On and after October 24, 1991 a responsible official applying to make a change to a source such that a new construction permit is required, must pay a permit processing fee equal to one-half the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500. This fee is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.

Subparagraph (k) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (k) in its entirety and replacing it with the following so that, as amended, subparagraph (k) shall read as follows:

- (k) Beginning one (1) month after the effective date of the rule amendment that added this subparagraph (k), conditional major sources must pay a permit review fee in accordance with the table below in addition to the minor source annual emission fees specified in subparagraph ~~4200-03-26-.02(6)(e)~~ of this rule. This fee is due and payable to the Division according to Schedule 1 found in subparagraph ~~4200-03-26-.02(6)(c)~~ of this rule. When determining the allowable tons per year, carbon monoxide emissions shall be included.

Allowable Tons Per Year	Review Fee
0-50	\$250
50.1-100 TPY	\$500
100.1-250 TPY	\$1,000
250.1 and up	\$2,000

Subparagraph (d) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting subparagraph (d) in its entirety and replacing it with the following so that, as amended, subparagraph (d) shall read as follows:

- (d) The rate at which major source actual-based annual emission fees are assessed shall be ~~\$35.00~~ \$39.00 per ton for the annual accounting period July 1, ~~2010~~ 2011 through June 30, ~~2011~~ 2012. The rate at which major source allowable-based annual emission fees are assessed shall be ~~\$24.50~~ \$28.50 per ton for the annual accounting period July 1, ~~2010~~ 2011 through June 30, ~~2011~~ 2012. Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than ~~\$6,500~~ \$7,500 for the annual accounting period July 1, ~~2010~~ 2011 through June 30, ~~2011~~ 2012. An annual revision to these rates and the minimum fee must result in the collection of sufficient fees to fund the activities identified in subparagraph ~~4200-03-26-.02(1)(c)~~ of this rule. These annual rates and the minimum fee shall be supported by the Division's annual workload analysis that is approved by the Board.

Authority: T.C.A. §§ 68-201-101 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)
Michael Atchison	X				
Dr. J. Ronald Bailey	X				
Elaine Boyd	X				
Dr. Brian Christman	X				
Dr. Wayne T. Davis	X				
Dr. Mary English				X	
Stephen R. Gossett	X				
Honorable Mayor Tommy Green, Jr.				X	
Dr. Shawn A. Hawkins	X				
Helen S. Hennon	X				
Richard M. Holland	X				
John R. Roberts, Sr.				X	
Honorable Mayor Larry Waters	X				
Alicia M. Wilson	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 01/11/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Radiological Health

SUBJECT: Rule Reorganization

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-202-101 et seq.

EFFECTIVE DATES: May 22, 2012 through June 30, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

These rulemaking changes reflect a reorganization of all TDEC rules in order to be more logical and user friendly. This rulemaking affects Chapters 1200-02-04, 1200-02-05, 1200-02-06, 1200-02-07, 1200-02-08, 1200-02-09, 1200-02-10, 1200-02-11 and 1200-02-12. Its various additions and modifications will incorporate:

- a. Changes to the numbering designation of Radiological Health rules from 1200-02 to 0400-20;
- b. Correcting typographical errors throughout all Chapters; and
- c. Deleting obsolete language.

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)

- (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:

This rulemaking that changes the rule numbers from Chapter 1200-20-09 and that makes other housekeeping changes makes no substantive changes. Therefore, there is no impact on small business.

- (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:

There are no projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

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

There is no expected adverse affect on small businesses as a result of this rulemaking.

- (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 Department is unaware of alternatives to the proposed rules.

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

There is no exact match with any 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.

Due to the administrative nature of this rulemaking small businesses could not be exempt from this rulemaking.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule to 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 does not anticipate that these amended rules will have a financial impact on local governments.

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.

No comments were received during the comment period.

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Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Radiological Health
Contact Person:	Beth Murphy
Address:	3 rd Floor L&C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1532
Phone:	(615) 532-0392
Email:	beth.murphy@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
0400-20-09	Requirements for Accelerators
Rule Number	Rule Title
0400-20-09-.01	Purpose
0400-20-09-.02	Scope
0400-20-09-.03	Definitions
0400-20-09-.04	Requirements for Registration
0400-20-09-.05	General Requirements for the Issuance of a Certified Registration
0400-20-09-.06	Specific Requirements for the Issuance of a Certified Registration
0400-20-09-.07	Issuance of a Certified Registration
0400-20-09-.08	Specific Terms and Conditions of a Certified Registration
0400-20-09-.09	Expiration of a Certified Registration
0400-20-09-.10	Renewal of a Certified Registration
0400-20-09-.11	Amendment of Certified Registration at Request of Registrant
0400-20-09-.12	Division Action on Request to Renew or Amend
0400-20-09-.13	Inalienability of Certified Registrations
0400-20-09-.14	Reserved
0400-20-09-.15	Modification, Revocation, and Termination of a Certified Registration
0400-20-09-.16	Records
0400-20-09-.17	General Safety Provisions
0400-20-09-.18	Limitations
0400-20-09-.19	Operating and Emergency Procedures
0400-20-09-.20	Tests and Surveys
0400-20-09-.21	Therapeutic Accelerator Installations
0400-20-09-.22	Minimum Subjects to be Covered in Training Accelerator Operators

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1200-02-09-.22	Minimum Subjects to be Covered in Training Accelerator Operators

(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://tn.gov/sos/rules/1360/1360.htm>)

Repeal

Chapter 1200-02-09 Requirements for Accelerators is repealed.

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

New Rules

Chapter 0400-20-09 Requirements for Accelerators

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0400-20-09-.11	Amendment of Certified Registration at Request of Registrant	0400-20-09-.22	Minimum Subjects To Be Covered in Training Accelerator Operators

~~1200-02-09-.04~~ 0400-20-09-.01 Purpose.

This Chapter establishes requirements for all accelerators and facilities. The provisions of this Chapter are in addition to and not in substitution for other applicable provisions of these regulations.

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

~~1200-02-09-.02~~ 0400-20-09-.02 Scope.

Except as otherwise provided, this Chapter applies to all persons who possess or use accelerators.

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

~~1200-02-09-.03~~ 0400-20-09-.03 Definitions.

(1) "Accelerator" means any device used to impart kinetic energy to electrically charged particles including but not limited to electrons, protons, deuterons, and helium ions. For the purpose of this chapter "accelerator" includes equipment designed for and used only for the production of x-rays of 0.9 MeV or greater and equipment capable of discharging nuclear particles into a medium external to the accelerating device.

~~(3)(2)~~ "Misadministration" means an event that meets the criteria in ~~1200-02-05-.145~~ Rule 0400-20-05-.145.

~~(2)(3)~~ "Operator" means a person who manipulates the controls of an accelerator and who is responsible to the registrant for assuring compliance with the requirements of these regulations and all Certified Registration Conditions during operation of the accelerator.

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

~~4200-02-09-.04~~ 0400-20-09-.04 Requirements for Registration.

- (1) No person shall activate an accelerator, until the registration has been certified pursuant to the information supplied by the applicant and ~~4200-02-09-.05~~ Rule 0400-20-09-.05.
- (2) Application for a Certified Registration shall be made to the Division as follows:
 - (a) Application for a Certified Registration shall be filed on a form prescribed by the Division.
 - (b) The Division may at any time after the filing of the original application or before the expiration of the Certified Registration require further statements in order to enable the Division to determine whether certification should be granted or denied or whether the Certified Registration should be modified or revoked.
 - (c) Each application shall be signed by a person authorized to act for and on behalf of the applicant.
- (3) Possession of a Certified Registration is not required in order to transfer, own, receive, acquire, or possess an accelerator when such devices are in storage or disassembled or otherwise incapable of operation. However, each person receiving such accelerator shall within ten 10 days after the receipt of the accelerator submit an application for Certified Registration pursuant to ~~4200-02-10-.24~~ Rule 0400-20-10-.24.

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

~~4200-02-09-.05~~ 0400-20-09-.05 General Requirements for the Issuance of a Certified Registration.

A registration will be certified if the Division determines that:

- (1) The applicant has personnel to use the accelerator for purposes requested and to handle any associated radioactive material in such a manner as to protect public health and safety or property;
- (2) The applicant's proposed equipment, facilities, and procedures will protect the public health and safety or property;
- (3) The applicant has a method of retraining and testing of operators and all other associated personnel at least annually to assure continued competency; and
- (4) The applicant satisfies all applicable requirements of these regulations.

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

~~4200-02-09-.06~~ 0400-20-09-.06 Specific Requirements for the Issuance of a Certified Registration.

- (1) In addition to the requirements of ~~4200-02-09-.05~~ Rule 0400-20-09-.05, a Certified Registration for human use of an accelerator in medical institutions will be issued only if:
 - (a) The applicant has appointed a medical committee of at least three members to evaluate all proposals for research, diagnostic, and therapeutic use of an accelerator within that institution. Membership of the committee shall include physicians expert in internal medicine, hematology, therapeutic radiology and a person experienced in particle depth dose calculations, and protection against radiation;
 - (b) The applicant possesses facilities for the clinical care of patients; and

- (c) The physician designated on the application as the responsible individual shall be a radiologist or therapeutic radiologist certified by the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology and has experience in the use of accelerators to treat humans.¹
- (2) In addition to the requirements of ~~4200-02-09-.05~~ Rule 0400-20-09-.05, a Certified Registration for an accelerator which is to be used in research and development will be issued only if:
- (a) The applicant has appointed a radiological safety officer who will advise and assist on radiological safety problems; and
- (b) The applicant has established a radiation safety committee (composed of the radiological safety officer and one or more individuals trained or experienced in the safe use of accelerators) which will review and approve, in advance, proposals for such use.
- (3) In addition to the requirements of ~~4200-02-09-.05~~ Rule 0400-20-09-.05, a Certified Registration for use of an accelerator in industrial radiography will be issued only if the requirements of Chapter ~~4200-02-08~~ 0400-20-08 are satisfied.
- (4) In addition to the requirements of ~~4200-02-09-.05~~ Rule 0400-20-09-.05, a Certified Registration for the production of radioactive materials by an accelerator will be issued only if:
- (a) The applicant's staff has experience in the use of accelerators in the production of radioactive materials; and
- (b) The applicant has appointed a radiological safety officer who will advise and assist on radiological safety problems.
- (5) In addition to the requirements of ~~4200-02-09-.05~~ Rule 0400-20-09-.05, a Certified Registration for the modification of the structure, chemical composition, bacterial composition of materials, etc. by an accelerator will be issued only if:
- (a) The applicant's staff has experience in the modification of materials; and
- (b) The applicant has appointed a radiological safety officer who will advise and assist on the radiological safety problems.

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

~~4200-02-09-.07~~ 0400-20-09-.07 Issuance of a Certified Registration.

¹ Certified registrants that desire to utilize physician(s) who do not meet these criteria for minimum training and experience may request a variance excepting the physician from the requirements for a limited time period. The variance request should include:

1. The name of the proposed individual,
2. A description of his or her training and experience including information similar to that specified in ~~4200-02-09-.06~~ subparagraph (1)(c) of Rule 0400-20-09-.06,
3. Information to substantiate that the physician is currently engaged in the certification process,
4. Written endorsement of the technical qualifications of the proposed physician from personal knowledge by a physician certified by the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology. This should be a letter from the proposed physician's Residency Director where the physician in question completed the Residency program in radiology or therapeutic radiology.

Upon receipt of acceptable information, the Division will grant a specific variance to ~~4200-02-09-.06~~ subparagraph (1)(c) of Rule 0400-20-09-.06. This variance will be for a time period not to exceed ~~one~~ 1 year. The Division will entertain a request to extend this variance for no more than ~~a two~~ 2 additional ~~one~~ 1 year time periods provided the certified registrant can support that the physician remains currently engaged in the certification process.

- (1) Upon a determination that an application meets the applicable requirements of the ~~regulations of the Division Chapters 0400-20-04 through 0400-20-12~~, the Division will issue a Certified Registration authorizing the proposed activity.
- (2) The Division may incorporate in any Certified Registration at the time of issuance, or thereafter by such additional provisions with respect to the registrant's accelerator as it deems appropriate or necessary in order to:
 - (a) Protect the public health and safety or property; and
 - (b) Require reports and the keeping of records, as may be necessary to evaluate activities conducted under the Certified Registration.

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

~~1200-02-09-08~~ 0400-20-09-08 Specific Terms and Conditions of a Certified Registration.

- (1) Certified Registrations issued pursuant to this Chapter shall be subject to all rules, regulations, and orders of the Division.
- (2) Neither the Certified Registration nor any right under the Certified Registration shall be assigned or otherwise transferred.
- (3) Each person registered by the Division pursuant to this Chapter shall confine his use and possession of the accelerator to the locations and purposes authorized in the Certified Registration.

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

~~1200-02-09-09~~ 0400-20-09-09 Expiration of a Certified Registration.

Except as provided in ~~1200-02-09-10~~ Rule 0400-20-09-10 each Certified Registration shall expire at the end of the day in the month and year stated therein.

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

~~1200-02-09-10~~ 0400-20-09-10 Renewal of a Certified Registration.

- (1) Request for renewal of a Certified Registration shall be filed in accordance with ~~1200-02-09-04~~ paragraph (2) of Rule 0400-20-09-04.
- (2) In any case in which a registrant, not less than ~~thirty~~ 30 days prior to expiration of his existing Certified Registration, has filed a request in proper form for renewal or for a new Certified Registration authorizing the same activities, such existing Certified Registration shall not expire until the request has been finally determined by the Division.

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

~~1200-02-09-11~~ 0400-20-09-11 Amendment of Certified Registration at Request of Registrant.

Requests for amendment of a Certified Registration shall be filed in accordance with ~~1200-02-09-04~~ paragraph (2) of Rule 0400-20-09-04 and shall specify the manner in which the registrant desires his Certified Registration to be amended and the grounds for such amendment.

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

~~1200-02-09-12~~ 0400-20-09-12 Division Action on Request to Renew or Amend.

In considering a request by a registrant to renew or amend his Certified Registration, the Division will apply the criteria set forth in ~~1200-02-09-05~~ Rules 0400-20-09-05 and ~~1200-02-09-06~~ 0400-20-09-06 as applicable.

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

~~1200-02-09-.13~~ 0400-20-09-.13 Inalienability of Certified Registrations.

No Certified Registration issued or granted under this Chapter and no right to utilize an accelerator granted by any Certified Registration issued pursuant to this Chapter shall be transferred, assigned, or in any manner disposed of, either voluntarily, or involuntarily, directly, or indirectly, through transfer of control of any Certified Registration to any persons unless the Division shall find that the transfer, assignment or disposal is in accordance with the provisions of the regulations and shall give its consent in writing.

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

~~1200-02-09-.14~~ 0400-20-09-.14 Reserved.

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

~~1200-02-09-.15~~ 0400-20-09-.15 Modification, Revocation, and Termination of a Certified Registration.

- (1) A Certified Registration shall be subject to amendment, revision or modification or may be suspended or revoked by reason of amendments to ~~the Act~~ T.C.A. §§ 68-202-201 et seq., or by reason of rules or regulations issued by the Division.
- (2) Any Certified Registration may be revoked, suspended, or modified, in whole or part, for any material false statement in the application or in any statement of fact required under provisions of ~~the Act~~ T.C.A. §§ 68-202-201 et seq., or because of conditions revealed by such application or statement of fact of any report, records, or inspection or other means which would warrant the Division to refuse to grant a Certified Registration on an original application, or for violation of, or failure to observe any of the terms and conditions of ~~the Act~~ T.C.A. §§ 68-202-201 et seq., or of the Certified Registration or of any rule or regulation of the Division. This action will be taken pursuant to ~~Tennessee Code Annotated, Chapter 23~~ T.C.A. Title 68, Chapter 202.
- (3) The Division may terminate a Certified Registration upon written request submitted by the registrant to the Division.

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

~~1200-02-09-.16~~ 0400-20-09-.16 Records.

In addition to the records required elsewhere in ~~these regulations~~ Chapters 0400-20-04 through 0400-20-08 and Chapters 0400-20-10 through 0400-20-12, each registrant shall maintain records of any tests or surveys required by this Chapter.

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

~~1200-02-09-.17~~ 0400-20-09-.17 General Safety Provisions.

- (1) The Division may waive compliance with the specific requirements of this Chapter if the applicant or registrant demonstrates, to the Division's satisfaction, achievement of radiation protection, through other means, equivalent to that required by ~~these regulations~~ Chapters 0400-20-04 through 0400-20-08 or Chapters 0400-20-10 through 0400-20-12.
- (2) Each registrant shall provide personnel monitoring devices that shall be calibrated for the radiations and energies of radiation produced by the accelerator and shall be used as required by ~~1200-02-05-.70~~ Rules 0400-20-05-.70 and 1200-02-05-.71 0400-20-05-.71 of these regulations.
- (3) Each installation shall be provided with such primary barriers and/or secondary barriers as are necessary to assure compliance with ~~1200-02-05-.50~~ Rules 0400-20-05-.50, 1200-02-05-.55 0400-20-05-.55, ~~1200-02-05-.56~~ 0400-20-05-.56 and ~~1200-02-05-.60~~ 0400-20-05-.60 of these regulations.

(4) Controls and Safety Devices:

- (a) Only the operator at the control panel shall be able to activate an accelerator to create a radiation field in any area in which an individual could receive a dose in excess of ~~two~~ 2 millirems per hour.
- (b) All entrances into a target room or other high radiation areas shall be provided with interlocks.
- (c) The interlock system and the emergency cut-off shall be separate electrical circuits and/or mechanical systems.
- (d) When any interlock is interrupted, broken, or tripped, either the accelerator will shut off automatically or the radiation level within the room will be reduced to an average of not more than ~~two~~ 2 millirems per hour and a maximum of ~~ten~~ 10 millirems per hour at a distance of 1 meter in any direction from any accessible surface of the accelerator system. After shut-off or reduction in output, it shall be possible to restore the accelerator to full operation only from the control panel. Radiation levels produced by radioactive materials shall not be considered as the radiation levels to be reduced by such controls.
- (e) Interlocks shall not be used to shut off the accelerator except in an emergency or during testing.
- (f) Emergency shut-off switches shall be located within the high radiation areas so as to be accessible to individuals therein within the warning period. These switches and their mode of operation shall be identified by a conspicuously posted sign adjacent to the switch. These switches shall be capable of automatically causing the accelerator to either shut off or reduce the radiation level to an average of not more than ~~two~~ 2 millirems per hour and a maximum of ~~ten~~ 10 millirems per hour at a distance of 1 meter in any direction from any accessible surface of the accelerator system. Such shut-off switches shall include a manual reset at each such switch which must be reset at the switch before the accelerator may be restarted by the operator at the control panel. Radiation levels produced by radioactive material shall not be considered as the radiation levels to be reduced by such control.
- (g) All locations designated as high radiation areas, except those exempted in ~~4200-02-09-24~~ subparagraph (3)(c) of Rule 0400-20-09-21, shall be equipped with visual flashing or rotating warning lights that operate when, and only when, radiation is being produced. Each entrance to such area shall have a visual warning device, which need not be flashing or rotating, but operates when, and only when radiation is being produced.
- (h) Each high radiation area except those exempted in ~~4200-02-09-24~~ subparagraph (3)(b) of Rule 0400-20-09-21 shall have an audible warning device which shall be activated for at least ~~five~~ 5 seconds prior to the possible creation of such high radiation area. Following the activation of the audible warning device, there shall be a delay of not less than ~~thirty~~ 30 seconds before the high radiation area may be produced. Such warning device shall be discernible in all high radiation and radiation areas.
- (i) All meters and controls on the accelerator control console shall be identified and discernible.
- (j) The accelerator control panel shall be provided with a locking device to prevent use by unauthorized individuals. Such locking device shall, when locked, make the accelerator incapable of creating a radiation field in any areas in which an individual could receive a dose in excess of ~~two~~ 2 millirems per hour.
- (k) There shall be available at each facility portable radiation monitoring equipment which is operable and has been calibrated for the radiations being produced by the facility. Such equipment shall be tested for operation and calibrated at intervals not to exceed ~~three~~ 3 months and after each instrument servicing and repair. A note shall be attached to each instrument showing the latest calibration date. Records of calibration shall be maintained for inspection by the Division.

- (l) There shall be present at the control panel and at entrances to all high radiation areas a device which shall give a continuous indication of the radiation levels present in the target or areas.
 - (m) Electrical circuit diagrams of the accelerator and the associated interlock systems shall be kept current and on file at each accelerator facility.
 - (n) All high radiation areas shall be so constructed that persons within the area may at all times be able to escape.
- (5) Operation.
- (a) Only operators qualified as required under ~~4200-02-09-18~~ of this Chapter Rule 0400-20-09-18 shall be allowed to unlock and operate the control panel of an accelerator.
 - (b) Interlocks may be bypassed only to test, adjust, maintain, and/or rearrange equipment provided a conspicuous indication of such condition is made at the control panel. This subparagraph ~~does~~ does not authorize the operation of an accelerator with the high radiation area warning devices or emergency shut off switches incapable of proper operation.
 - (c) Activities in which interlocks are bypassed as permitted under ~~4200-02-09-17~~ subparagraph (5)(b) of Rule 0400-20-09-17.
 1. Shall only be authorized by the radiation safety officer;
 2. Shall only be performed for a specified time;
 3. Shall be recorded showing the date, length of time bypassed, reason for bypassing, and signed by the individual installing and removing the bypass. These records shall be maintained for inspection by the Division; and
 4. Shall be performed at low power and current, if possible.
 - (d) No individual shall be permitted to enter an area, the access of which is controlled by interlocks, while such interlocks are bypassed, as permitted in ~~4200-02-09-17~~ subparagraph (5)(b) of Rule 0400-20-09-17, unless such individual is utilizing personnel monitoring equipment which will give an audible indication when a dose rate of 15 millirems per hour is exceeded. The personnel monitoring equipment referred to in this paragraph is in addition to that required elsewhere in these ~~regulations~~ rules. Calibration requirements of ~~4200-02-09-17~~ subparagraph (4)(k) of Rule 0400-20-09-17 shall also apply to such personnel monitoring equipment.
 - (e) The operator shall have at the control panel a copy of the operating and emergency procedures.

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

~~4200-02-09-18~~ 0400-20-09-18 Limitations.

No registrant shall permit any person to act as an operator as defined in this Chapter Rule 0400-20-09-03 until such person:

- (1) Has been instructed in the subjects outlined in ~~4200-02-09-22~~ of this Chapter Rule 0400-20-09-22;
- (2) Has received copies of and instruction in the applicable parts of these regulations, a copy of the facility's Certified Registration and the registrant's operating and emergency procedures; and
- (3) Has physically demonstrated competence to use the particle accelerator, related equipment, and survey instruments which will be employed in his assignment.

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

~~4200-02-09-19~~ 0400-20-09-19 Operating and Emergency Procedures.

The registrant's operating and emergency procedures shall include instructions in at least the following:

- (1) The use of the accelerator in such a manner that no person will be exposed to radiation doses in excess of the limits established in Chapter ~~4200-02-05~~ of these regulations 0400-20-05;
- (2) Methods and occasions for conducting surveys;
- (3) Methods for controlling access to high radiation areas;
- (4) Methods and occasions for locking the control panel of the accelerator;
- (5) Personnel monitoring and the use of personnel monitoring equipment;
- (6) Methods for minimizing exposure of individuals in the event of an accident;
- (7) Notification procedures in the event of an accident; and
- (8) The maintenance of records.

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

~~4200-02-09-20~~ 0400-20-09-20 Tests and Surveys.

Each registrant shall:

- (1) Test all safety and warning devices including interlocks at intervals not to exceed 3 months to determine that they are functioning properly;
- (2) In conjunction with initial operation and after changes have been made in shielding, operating parameters, equipment, or occupancy of adjacent areas, make a survey as required in ~~4200-02-05-70~~ Rule 0400-20-05-70;
- (3) Test any interlock which has been bypassed or otherwise prevented from operation, when such interlock is returned to use, to determine if it is functioning properly; and
- (4) Have a survey made of each radiation area upon the initial entry by personnel into these areas following the operation of accelerator. The registrant shall not be required to make a record of the survey required by this paragraph.

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

~~4200-02-09-24~~ 0400-20-09-21 Therapeutic Accelerator Installations.

- (1) Operation.
 - (a) No individual except the patient shall be in the treatment room during irradiation.
 - (b) The emergency procedures shall include instructions for:
 1. Minimizing exposure of individuals in the event of an accident, e.g., alternate means of terminating the accelerator beam.
 2. Removing the patient from the treatment room.
 3. Preventing the entrance of individuals into the treatment room.
 4. Notifying the responsible physician or radiation protection officer.

- (c) During patient irradiation, both the patient and the control panel shall at all times be kept under observation by the operator.
- (2) Equipment.
 - (a) A therapeutic-type protective tube housing shall be utilized for x-ray therapy devices.
 - (b) Diaphragms or cones shall be used to collimate the useful beam of radiation to those portions of the body undergoing treatment. Such diaphragms or cone shall transmit not more than ~~five~~ 5 percent of the maximum useful beam.
 - (c) A timer shall be provided to terminate the exposure after a preset time regardless of what other exposure limiting devices are present. Where the timing device is utilized as a backup device, the time preset shall not be greater than that necessary to provide the required dose with allowance for equipment variability.
 - (d) Full calibration measurements shall be performed on each therapeutic accelerator:
 - 1. Prior to the first use of the unit for treating humans;
 - 2. Prior to treating humans;
 - (i) Whenever spot-check measurements indicate that the output value differs by more than 5 percent from the value obtained at the last full calibration;
 - (ii) Following reinstallation of the unit in a new location;
 - (iii) Following any repair of the unit that includes repair of the components associated with radiation exposure; and
 - 3. At intervals not exceeding ~~one~~ 1 year.
 - (e) Full calibration measurements required by subparagraph (d) of this paragraph shall include determination of:
 - 1. The exposure rate or dose rate to an accuracy within ± 3 percent for the range of field sizes and for the range of distances (or for the axis distance) used in radiation therapy;
 - 2. The congruence between the radiation field and the field indicated by the light beam localizing device;
 - 3. The uniformity of the radiation field and its dependence upon the orientation of the useful beam;
 - 4. Timer accuracy; and
 - 5. The accuracy of all distance measuring devices used for treating humans.
 - (f) Full calibration measurements shall be made in accordance with the procedure recommended by the Scientific Committee on Radiation Dosimetry of the American Association of Physicists in Medicine (Physics in Medicine and Biology, Vol. 16, No. 3, 1971, pp. 379-396).
 - (g) Full calibration measurements required by subparagraph (d) of this paragraph shall be performed by a qualified expert as defined in ~~4200-02-04-.04(1)(pp)~~ Rule 0400-20-04-.04.
 - (h) Spot-check measurements shall be performed on each therapeutic accelerator at intervals not exceeding ~~one~~ 1 month.

- (i) Spot-check measurements required by subparagraph (h) of this paragraph shall include determination of:
 1. Timer accuracy;
 2. The congruence between the radiation field and the field indicated by the light beam localizing device;
 3. The accuracy of all distance measuring devices used for treating humans; and
 4. The exposure rate, dose rate or a quantity related in a known manner to those rates for one typical set of operating conditions.
 - (j) Spot-check measurements required by subparagraph (h) of this paragraph shall be performed in accordance with procedures established by a qualified expert as defined in ~~1200-02-04-.04 (1)(pp)~~ Rule 0400-20-04-.04. (A qualified expert need not actually perform the spot-check measurements.) If a qualified expert does not perform the spot-check measurements, the results of the spot-check measurements shall be reviewed by a qualified expert within 15 days.
 - (k) Full calibration measurements required in subparagraph (d) of this paragraph shall be performed using a dosimetry system that has been calibrated by the National Bureau of Standards or by a Regional Calibration Laboratory accredited by the American Association of Physicists in Medicine. The dosimetry system shall have been calibrated within the previous ~~two~~ 2 years and after any servicing that may have affected system calibration.
 - (l) Spot-check measurements required by subparagraph (h) of this paragraph shall be performed using a dosimetry system that has been calibrated in accordance with subparagraph (k) of this paragraph. Alternatively, a dosimetry system used solely for spot-check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with subparagraph (k) of this paragraph. This alternative calibration method shall have been performed within the previous ~~one~~ 1 year and after each servicing that may have affected system calibration. Dosimetry systems calibrated by this alternative method shall not be used for full calibration measurements.
 - (m) Records of the measurements, tests, corrective actions and instrument calibration made under subparagraphs (d) through (f) and (h) through (l) of this paragraph and the registrants evaluation of the ~~Qualified Expert's~~ qualified expert's training and experience shall be maintained for inspection by the Division.
- (3) Facility.
- (a) Provisions shall be made to permit continuous observation of the patients during irradiation. Windows, mirror systems, or closed-circuit television viewing screens used for observing the patient shall be so located that the operator may see the patient from his position at the control panel.
 - (b) An accelerator used only for the treatment of humans shall not be required to have an audible warning device within the treatment room as required by ~~1200-02-09-.17~~ subparagraph (4)(h) of Rule 0400-20-09-.17.
 - (c) An accelerator used only for the treatment of humans shall not be required to have a flashing or rotating warning light in the treatment room but shall have therein a readily observable warning light or lights that operate when and only when radiation is being produced.

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

~~1200-02-09-.22~~ 0400-20-09-.22 Minimum Subjects To Be Covered in Training Accelerator Operators.

(1) Fundamentals of radiation safety.

- (a) Characteristics of radiation.
 - (b) Units of radiation dose and exposure and quantity of radioactivity.
 - (c) Biological effects of radiation.
 - (d) Methods of controlling radiation dose and exposure.
 - 1. Working time
 - 2. Working distance
 - 3. Shielding
- (2) Radiation detection instrumentation to be used.
- (a) Use of radiation survey instruments.
 - 1. Operation
 - 2. Calibration
 - 3. Limitations
 - (b) Survey techniques.
 - 1. Methods of surveys
 - 2. Records which must be made and retained.
 - (c) Use of personnel monitoring equipment.
- (3) Operation and control of accelerators.
- (4) The requirements of state regulations.
- (5) The registrant's written operating and emergency procedures.

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

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation
DIVISION: Radiological Health
SUBJECT: Rule Reorganization
STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-202-101 et seq.
EFFECTIVE DATES: May 22, 2012 through June 30, 2013
FISCAL IMPACT: Minimal
STAFF RULE ABSTRACT:

These rulemaking changes reflect a reorganization of all TDEC rules in order to be more logical and user friendly. This rulemaking affects Chapters 1200-02-04, 1200-02-05, 1200-02-06, 1200-02-07, 1200-02-08, 1200-02-09, 1200-02-10, 1200-02-11 and 1200-02-12. Its various additions and modifications will incorporate:

- a. Changes to the numbering designation of Radiological Health rules from 1200-02 to 0400-20;
- b. Correcting typographical errors throughout all Chapters; and
- c. Deleting obsolete language.

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)

- (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:

This rulemaking that changes the rule numbers from Chapter 1200-20-10 and that makes other housekeeping changes makes no substantive changes. Therefore, there is no impact on small business.

- (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:

There are no projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

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

There is no expected adverse affect on small businesses as a result of this rulemaking.

- (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 Department is unaware of alternatives to the proposed rules.

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

There is no exact match with any 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.

Due to the administrative nature of this rulemaking small businesses could not be exempt from this rulemaking.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to 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 does not anticipate that these amended rules will have a financial impact on local governments.

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.

No comments were received during the comment period.

(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://tn.gov/sos/rules/1360/1360.htm>)

Repeal

Chapter 1200-02-10 Licensing and Registration is repealed.

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

New Rules

Chapter 0400-20-10 Licensing and Registration

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~~1200-02-10-.01~~ 0400-20-10-.01 Purpose.

This Chapter establishes requirements for the licensing and registration of sources of radiation.

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

~~1200-02-10-.02~~ 0400-20-10-.02 Scope.

Except as otherwise specifically provided, no person shall manufacture, produce, receive, possess, use, transfer, own, or acquire radioactive material unless authorized in a specific or general license issued pursuant to this chapter. All other sources of radiation, registered inspectors, and x-ray installations and services unless exempt from this Chapter under Rule ~~1200-02-10-.03~~ 0400-20-10-.03, ~~1200-02-10-.04~~ 0400-20-10-.04, ~~1200-02-10-.06~~ 0400-20-10-.06, ~~1200-02-10-.07~~ 0400-20-10-.07 or ~~1200-02-10-.30~~ 0400-20-10-.30 shall be registered with the Division in accordance with the requirements of Rule ~~1200-02-10-.24~~ 0400-20-10-.24.

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

1200-02-40-03 0400-20-10-03 Exemptions: Source Material.

- (1) Any person is exempt from this Chapter to the extent that such person receives, possesses, uses, or transfers source material in any chemical mixture, compound, solution or alloy in which the source material is by weight less than 1/20 of 1 percent (0.05 percent) of the mixture, compound, solution, or alloy.
- (2) Any person is exempt from this Chapter to the extent that such person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or process such ore.
- (3) Any person is exempt from this Chapter to the extent that such person receives, possesses, uses, or transfers:
 - (a) Any quantities of thorium contained in:
 - a.1 Incandescent gas mantles;
 - b.2 Vacuum tubes;
 - c.3 Welding rods;
 - d.4 Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
 - e.5 Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than 2 grams of thorium;
 - f.6 Rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight of thorium, uranium, or any combination of these; or
 - g.7 Personnel neutron dosimeters provided that each dosimeter does not contain more than 50 milligrams of thorium.
 - (b) Source material contained in the following products:
 - a.1 Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material;
 - b.2 Piezoelectric ceramic glassware containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;
 - d.3 Glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983.
 - (c) Photographic film, negatives, and prints containing uranium or thorium.
 - (d) Any finished product or part fabricated of, or containing tungsten or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such product or part.
 - (e) Uranium contained in counterweights installed in aircraft, rockets, projectiles and missiles or stored or handled in connection with installation or removal of such counterweights, provided that:

1. The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 CFR 40;
 2. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"¹ [Depleting uranium means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present];
 3. Each counterweight is durably and legibly labeled or marked with the identification of manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"¹; and
 4. The exemption contained in this subparagraph shall not be deemed authorize the chemical, physical, or metallurgical treatment or processing of any such counterweights other than repair or restoration of any plating or other covering.
- (f) Uranium used as shielding constituting part of any shipping container which is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and which is encased in mild steel or equally fire resistant metal of minimum wall thickness of 1/8 inch.
- (g) Thorium contained in finished optical lenses, provided that each lens does not contain more than 30 percent by weight of thorium; and that the exemption contained in this subparagraph shall not be deemed to authorize either:
1. The shaping, grinding, or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or
 2. The receipt, possession, use or transfer of thorium contained in contact lenses or in spectacles or in eye pieces in binoculars or other optical instruments.
- (h) Uranium contained in detector heads for use in fire detection units, provided that each detector head contains no more than 0.005 microcurie of uranium.
- (i) Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
1. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and
 2. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- (4) The exemptions in paragraph (3) of this rule do not authorize the manufacture of any of the products described.

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

~~4200-02-10-04~~ ~~0400-20-10-04~~ Exemptions: Radioactive Materials Other Than Source Material.

(1) Exempt concentrations.

¹ The requirements specified in parts 2 and 3 of this subparagraph need not be met by counterweights manufactured prior to December 31, 1969; provided that such counterweights are impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM" as previously required by the regulations.

- (a) Except as provided in ~~Rule 1200-02-10-04(1)~~ subparagraphs (b) and (d) of this paragraph, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires products containing radioactive material introduced in concentrations not in excess of those listed in Schedule RHS 8-4.
- (b) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under ~~Rule 1200-02-10-04(1)~~ subparagraph (a) of this paragraph or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State except in accordance with a license issued pursuant 10 CFR 32.11.
- (c) This paragraph shall not be deemed to authorize the import of radioactive material or products containing radioactive material.
- (d) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in these regulations to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Schedule RHS 8-4 in the Appendix to this Chapter and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(2) Exempt products.

- (a) Except for persons who apply radioactive materials to or persons who incorporate radioactive material into the products listed in this paragraph, any person is exempt from these regulations to the extent that he receives, possesses, uses, transfers, owns or acquires the following products²;
 - 1. Time pieces or hands or dials containing not more than the following quantities of radioactive material and not exceeding the following specified levels of radiation:
 - (i) 25 millicuries of tritium per timepiece;
 - (ii) 5 millicuries of tritium per hand;
 - (iii) 15 millicuries of tritium per dial (bezels when used shall be considered as part of the dial);
 - (iv) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;
 - (v) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;
 - (vi) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels when used shall be considered part of the dial);

² Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity, or other product containing radioactive material, whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

- (vii) The levels of radiation from hands and dials containing radioactive materials will not exceed when measured through 50 milligrams per square centimeter of absorber:
 - (I) For wrist watches, 0.1 millirad per hour at 10 centimeters from any surface;
 - (II) For pocket watches, 0.1 millirad per hour at 1 centimeter from any surface;
 - (III) For any other timepiece, 0.2 millirad per hour at 10 centimeters from any surface.
- (viii) 1 microcuries of radium-226 per timepiece in timepieces acquired prior to ~~the effective date of this regulation~~ May 31, 1986.
- 2. Reserved.
- 3. Balances of precision containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part.
- 4. Reserved.
- 5. Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas manufactured before December 17, 2007.
- 6. Reserved.
- 7. Electron tubes³ containing not more than one of the following specified quantities of radioactive material per tube:
 - (i) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;
 - (ii) 1 microcurie of cobalt-60;
 - (iii) 5 microcuries of nickel-63;
 - (iv) 30 microcuries of krypton-85;
 - (v) 5 microcuries of cesium-137;
 - (vi) 30 microcuries of promethium-147;

provided, the levels of radiation from each electron tube containing radioactive material do not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber.
- 8. Reserved.
- 9. Gas and aerosol detectors containing radioactive material.

³ "Electron tubes", as used in this subparagraph, include spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

- (i) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided that detectors containing radioactive material shall have been manufactured, processed, produced, or initially transferred⁴ in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to section 32.26 of 10 CFR Part 32 or a licensing state pursuant to regulations equivalent to Rule 1200-02-10-13 paragraph (15) of Rule 0400-20-10-13 that authorizes the initial transfer of the detectors to persons who are exempt from regulatory requirements. This exemption also covers gas and aerosol detectors manufactured or distributed before December 8, 2011 in accordance with a specific license issued by an Agreement State under comparable provisions to Rule 1200-02-10-13 paragraph (15) of Rule 0400-20-10-13 authorizing distribution to persons exempt from regulatory requirements.
- (ii) Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State shall be considered exempt under Rule 1200-02-10-04(2)(a)9 subpart (i) of this part, provided that the device is labeled in accordance with the specific license authorizing distribution of the generally licensed device, and provided further that they meet the requirements of Rule 1200-02-10-13 paragraph (15) of Rule 0400-20-10-13.
- (iii) Gas and aerosol detectors containing NARM previously manufactured and distributed in accordance with a specific license issued by a Licensing State shall be considered exempt under Rule 1200-02-10-04(2)(a)9 subpart (i) of this part, provided that the device is labeled in accordance with the specific license authorizing distribution, and provided further that they meet the requirements of Rule 1200-02-10-13 paragraph (15) of Rule 0400-20-10-13.

10. Self luminous products containing radioactive material.

- (i) Except for persons who manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires tritium, krypton-85, promethium-147 in self luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements.
- (ii) The exemption in Rule 1200-02-10-04(2)(a)10 subpart (i) of this part does not apply to tritium, krypton-85, or promethium-147 used in products for frivolous purposes or in toys or adornments.
- (iii) Any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, or owns self luminous products containing less than 0.1 microcurie of radium-226 which were acquired prior to the effective

⁴ Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity, or other product containing radioactive material, whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

date of this regulation September 28, 1991.

11. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material; provided that:
 - (i) Each source contains no more than one exempt quantity set forth in Schedule RHS 8-3;
 - (ii) Each instrument contains no more than 10 exempt quantities. For purposes of this part, an instrument's source(s) may contain either one type or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Schedule RHS 8-3, provided that the sum of such fractions shall not exceed unity; and
 - (iii) For purposes of this part, 0.05 microcuries of americium-241 is considered an exempt quantity under Schedule RHS 8-3.
12. Reserved.
13. Ionization chamber smoke detectors containing not more than 1 microcurie (μCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(b) Any person who desires to apply radioactive material to, or to incorporate radioactive material into, the products exempted in subparagraph (a) of this paragraph or who desires to initially transfer for sale or distribution such products containing radioactive material, should apply for a specific license pursuant to 10 CFR 32.14, which license states that the product may be distributed by the licensee to persons exempt from subparagraph (a) of this paragraph.

(3) Exempt quantities.

- (a) Except as provided in subparagraphs (c) through (e) of this paragraph, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Schedule RHS 8-3.
- (b) Any person who possesses radioactive material received or acquired before September 25, 1971, under the general license formerly provided in this Chapter is exempt from the requirements for a license set forth in this Chapter to the extent that such person possesses, uses, transfers, or owns such radioactive material.
- (c) This paragraph ~~(3)~~ does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
- (d) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Schedule RHS 8-3, knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this paragraph or equivalent regulations of the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.18 of 10 CFR Part 32 or by the Department pursuant to ~~1200-02-10-13~~ paragraph (14) of Rule 0400-20-10-13 which license states that the radioactive material may be transferred by the licensee to persons exempt under this paragraph

~~(3)~~ or the equivalent regulations of the U.S. Nuclear Regulatory Commission, an Agreement State or Licensing State.⁵

- (e) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in Schedule RHS 8-3 in the Appendix to this Chapter, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the regulations in this Chapter.
- (4) Capsules containing carbon-14 urea for 'in vivo' diagnostic use for humans.
- (a) Except as provided in subparagraphs (4)(b) and (c) below of this paragraph, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns or acquires capsules containing 1 microcurie (37 kilobecquerels) carbon-14 urea (allowing for nominal variation that may occur during the manufacturing process) each, for 'in vivo' diagnostic use for humans.
 - (b) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license under this Chapter 4200-02-10.
 - (c) Any person who desires to manufacture, prepare, process, produce, package, repackage, or transfer for commercial distribution such capsules shall apply for and receive a specific license pursuant to 10 CFR 32.21.
 - (d) Nothing in this ~~section~~ paragraph relieves persons from complying with applicable FDA, other Federal and State requirements governing receipt, administration and use of drugs.

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

~~4200-02-10-.05~~ 0400-20-10-.05 Reserved.

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

~~4200-02-10-.06~~ 0400-20-10-.06 Exemptions: U.S. Department of Energy and U.S. Nuclear Regulatory Commission.

Any contractor or subcontractor of the U.S. Department of Energy (DOE) or the U.S. Nuclear Regulatory Commission (NRC) of the following categories operating within this State is exempt from these regulations to the extent that such contractor or subcontractor under his contract receives, possesses, uses, transfers or acquires sources of radiation:

- (1) Prime contractors performing work for DOE at U.S. Government-owned or controlled sites including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruption of such transportation;
- (2) Prime contractors of DOE performing research in, or development, manufacture, storage, testing or transportation of atomic weapons or components thereof;
- (3) Prime contractors of DOE using or operating nuclear reactors or other nuclear devices in the U.S. Government-owned vehicle or vessel; and

⁵ Authority to transfer possession or control by the manufacturer, processor or producer of any equipment, device, commodity, or other product containing radioactive material, whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

- (4) Any other prime contractor or subcontractor of DOE or NRC when the State and NRC jointly determine ~~(4)~~ that:
- (a) Under the terms of the contract or subcontract, there is assurance that the work thereunder can be accomplished with protection of the public health and safety; and ~~(2)~~ that,
 - (b) The exemption of such contractor or subcontractor is authorized by law.

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

~~1200-02-10-07~~ 0400-20-10-07 Other Exemptions.

- (1) The following machines and equipment are exempt from these regulations:
- (a) Domestic television receivers, providing the exposure rate at 5 centimeters from any outer surface is less than 0.5 milliroentgen per hour.
 - (b) Other electrical equipment that produces radiation incidental to its operation for other purposes, providing the dose rate to the whole body at the point of nearest approach to such equipment when any external shielding is removed does not exceed 0.5 rem per year. The production testing or factory servicing for such equipment shall not be exempt.
 - (c) Radiation producing machines while in transit or storage incident thereto.
 - (d) Radiation machines which are totally unusable except for salvage parts.
- (2) Equipment described in paragraph (1) of this rule shall not be exempt if it is used or handled in such a manner that any individual might receive a dose of radiation in excess of the limits specified in these regulations.

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

~~1200-02-10-08~~ 0400-20-10-08 Types of Licenses.

- (1) Licenses for radioactive materials are of two types:
- (a) General licenses provided for in this Chapter are effective without the filing of applications with the Division or the issuance of licensing documents to particular persons; however, the Division will require reporting of devices covered by the particular general license in accordance with ~~1200-02-10-10~~ part (2)(c)13 of Rule 0400-20-10-10.
 - (b) Specific licenses are issued to named persons upon applications filed pursuant to this chapter.
- (2) Reserved.

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

~~1200-02-10-09~~ 0400-20-10-09 General Licenses - Source Material.

- (1) A general license is hereby issued authorizing receipt, possession, use and transfer of not more than ~~fifteen~~ 15 pounds (6,803.89 grams) of source material at any one time:
- (a) To commercial and industrial firms, research, educational and medical institutions and State and local government agencies, for research, development, educational, commercial, or operational purposes;

- (b) Persons who receive, possess, use or transfer source material pursuant to the general license in this paragraph are prohibited from administering source material, or the radiation there from, either externally or internally, to human beings except as authorized by the Division in a specific license.
 - (c) Provided, that no such person shall, pursuant to this general license, receive more than a total of 150 pounds (68,038.90 grams) of source material in any one calendar year.
 - (d) Persons who receive, possess, use or transfer source material pursuant to the general license issued in ~~(1) of this Rule~~ accordance with this paragraph are exempt from the provisions of ~~4200-02-05 of these regulations~~ Chapter 0400-20-05 to the extent that such receipt, possession, use or transfer is within the terms of such general license; provided, however, that this exemption shall not be deemed to apply to any such person who is also in possession of source material under a specific license issued pursuant to this Chapter.
- (2) A general license is hereby issued authorizing the receipt of title to source material without regard to quantity. The general license under this paragraph does not authorize any person to receive, possess, use or transfer source material.

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

~~4200-02-10-10~~ 0400-20-10-10 General Licenses⁶ - Radioactive Material Other Than Source Material.

- (1) A general license is hereby issued to receive, acquire, own, possess, use and transfer radioactive material incorporated in a device or equipment which is listed in Schedule RHS 8-5 and has been manufactured pursuant to a specific license or equivalent licensing document, issued by the Division, the U.S. Nuclear Regulatory Commission, or any Agreement State and authorizing distribution under the general license of this paragraph or its equivalent.
- (2) Certain detecting, measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.⁷
 - (a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business and State or local government agencies to own, acquire, receive, possess, use or transfer, in accordance with the provisions of subparagraphs (b), (c) and (d) of this paragraph, radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.
 - (b) 1. The general license in subparagraph (a) of this paragraph applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in:
 - (i) A specific license issued by the Division pursuant to ~~Rule 1200-02-10-13~~ paragraph (5) of Rule 0400-20-10-13, or
 - (ii) A specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.51 or an Agreement State with provisions comparable to ~~Rule 1200-02-10-13~~ paragraph (5) of Rule 0400-20-10-13.

⁶ Different general licenses are issued in this rule, each of which has its own specific conditions and requirements.

⁷ Persons possessing radioactive material in devices under the general license in ~~4200-2-10-10(2) this paragraph~~ before October 2, 1978, may continue to possess, use or transfer that material in accordance with the requirements in the 1972 edition of the regulations.

2. The devices shall have been received from one of the above licensees in part 1 of this subparagraph or through a transfer made under part ~~(2)~~ (c)9 of this paragraph.
- (c) Persons who own, acquire, receive, possess, use or transfer radioactive material in a device pursuant to the general license contained in subparagraph ~~(2)~~ (a) of this paragraph:
1. Shall assure that all labels affixed to the device at the time of receipt and bearing the statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;
 2. Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than ~~six- 6~~ month intervals or at such other intervals as are specified in the label; however,
 - (i) Devices containing only krypton need not be tested for leakage of radioactive material; and
 - (ii) Devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or 10 microcuries of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose.
 3. Shall assure that the tests required by part ~~(2)(e)~~ 2 of this subparagraph and other testing, installation, servicing and removal from installation involving the radioactive material, its shielding or containment, are performed:
 - (i) In accordance with the instructions provided by the labels, or
 - (ii) By a person holding an applicable specific license issued by the Division, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities.
 4. Shall maintain records showing compliance with the requirements of parts ~~(2)(e)~~ 2 and ~~(e)~~3 of this subparagraph. The records shall show the results of tests. The records also shall show the dates of performance of and the names of persons performing testing, installation, servicing and removal from installation of the radioactive material, its shielding or containment. The licensee shall retain these records as follows:
 - (i) Each record of a test for leakage or radioactive material required by part ~~(2)(e)~~ 2 of this subparagraph shall be retained for ~~three~~ 3 years after the next required leak test is performed or until the sealed source is transferred or disposed of;
 - (ii) Each record of a test of the on-off mechanism and indicator required by part ~~(2)(e)~~ 2 of this subparagraph shall be retained for ~~three~~ 3 years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of; and
 - (iii) Each record that is required by part ~~(2)(e)~~ 3 of this subparagraph shall be retained for ~~three~~ 3 years from the date of the recorded event or until the sealed source is transferred or disposed of.
 5. Shall immediately suspend operation of the device if there is a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 becquerel) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding an applicable

specific license issued by the Division, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices. The device and any radioactive material from the device may only be disposed of by transfer to a person holding an applicable specific license to receive the radioactive material contained in the device or as otherwise approved by the Division. The licensee shall within 30 days furnish to the Division at the address in Rule ~~1200-02-04-07~~ 0400-20-04-07 a report containing a brief description of the event and the remedial action taken. In the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, the licensee shall within 30 days submit to the Division at the address in ~~1200-02-04-07~~ Rule 0400-20-04-07 a plan for ensuring that the premises and environs are acceptable for unrestricted use. Under these circumstances, the criteria set out in paragraph ~~1200-02-10-36~~ paragraph (2) of Rule 0400-20-10-36, "Radiological criteria for unrestricted use," may be applicable, as determined by the Division on a case-by-case basis;

6. Shall not abandon the device containing radioactive material;
7. Shall not export the device containing radioactive material except in accordance with 10 CFR 110;
8. Shall:
 - (i) Transfer or dispose of the device containing radioactive material only by export as provided by part ~~(2)(e)~~ 7 of this subparagraph, by transfer to another general licensee as authorized in part ~~(e)~~ 9 of this subparagraph, or to a person authorized to receive the device by a specific license issued by the Division under this Chapter or an equivalent license issued by the U.S. Nuclear Regulatory Commission or an Agreement State, or as otherwise approved under subpart ~~(2)(e)~~ (iii) below of this part.
 - (ii) Shall within ~~thirty~~ 30 days after the transfer of a device to a specific licensee or export furnish a report to the Division. The report shall contain:
 - (I) The identification of the device by manufacturer's (or initial transferor's) name, model number and serial number;
 - (II) The name, address and license number of the person receiving the device (license number not applicable if exported); and
 - (III) The date of the transfer.
 - (iii) Shall obtain written Division approval before transferring the device to any other specific licensee not specifically identified in subpart (i) of this part. However a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if, the holder:
 - (I) Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;
 - (II) Removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by part 1 of this subparagraph) so that the device is labeled in compliance with Rule ~~1200-02-05-113~~ 0400-20-05-113 of these regulations; however the manufacturer, model number, and serial number must be retained;

- (III) Obtains manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and
 - (IV) Reports the transfer under subpart (ii) of this part.
9. Shall transfer the device to another general licensee only if:
- (i) The device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of this paragraph ~~(2)~~ and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Division:
 - (I) The manufacturer's (or initial transferor's) name;
 - (II) The model number and the serial number of the device transferred;
 - (III) The transferee's name and mailing address for the location of use; and
 - (IV) The name, title and phone number of the responsible individual identified by the transferee in accordance with part ~~(2)(c)~~ 12 of this subparagraph to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or
 - (ii) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee.
10. Shall comply with the provisions of ~~1200-02-06-140~~ Rules 0400-20-05-140 and ~~1200-02-05-144~~ 0400-20-05-141 for reporting radiation incidents, theft or loss of radioactive material;
11. Shall respond to written requests from the Division to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Division at the address in Rule ~~1200-02-04-07~~ 0400-20-04-07 providing written justification as to why it cannot comply;
12. Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard;
13. Shall:
- (i) Report these devices to the Division annually. Reporting shall be done by verifying, correcting and/or adding to the information provided in a request for a report received from the Division. The report information shall be submitted to the Division within 30 days of the date of the request or as otherwise indicated in the request.
 - (ii) In reporting devices, furnish the following information and any other information specifically requested by the Division:

- (I) Name and mailing address of the general licensee;
 - (II) Information about each device: the manufacturer (or Initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);
 - (III) Name, title and telephone number of the responsible person designated as a representative of the general licensee under part ~~(e)~~ 12 of this subparagraph;
 - (IV) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage. Each address for a location of use represents a separate general license;
 - (V) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information; and
 - (VI) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.
14. Shall be subject to the bankruptcy notification requirement in paragraph (7) of Rule ~~1200-02-10-16~~ 0400-20-10-16 if holding devices containing radioactive material that meet the following criteria, based on the activity indicated on the label:
- (i) At least 10 mCi (370MBq) of cesium-137;
 - (ii) At least 0.1 mCi (3.7 MBq) of strontium-90;
 - (iii) At least 1 mCi (37 MBq) of cobalt-60;
 - (iv) At least 1 mCi (37 MBq) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)); or
 - (v) At least 0.1 mCi (37 MBq) of radium-226.
15. Persons generally licensed by the U.S. Nuclear Regulatory Commission or an Agreement State with respect to devices meeting the criteria in parts ~~(2)(e)~~ 13 and ~~(2)(e)~~ 14 of this subparagraph are not subject to reporting requirements if the devices are used in areas subject to the Division's jurisdiction for a period less than 180 days in any calendar year. The Division will not request reporting information from such licensees.
16. Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the Division, at the address in ~~1200-02-04-07~~ Rule 0400-20-04-07, within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage;
17. Shall not hold devices that are not in use for longer than ~~two~~ 2 years. If devices with shutters are not being used, the shutter shall be locked in the closed position. The testing required by part ~~(e)~~ 2 of this subparagraph need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person and have not been tested within the required test interval, they shall be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the ~~two~~ 2-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in storage.

- (d) The general license provided in this paragraph is subject to the provisions of ~~4200-02-10-16 paragraphs (1), (2) and (3) of Rule 0400-20-10-16, 4200-02-10-23 paragraphs (1), (2) and (3) of Rule 0400-20-10-23, 4200-02-10-26 Rules 0400-20-10-26 through 4200-02-10-28 0400-20-10-28 and 4200-02-10-30 Rule 0400-20-10-30.~~
- (e) The general license in ~~4200-02-10-10(2) subparagraph (a) of this paragraph~~ does not authorize the manufacture or import of devices containing radioactive material.
- (3) Luminous safety devices for aircraft.
- (a) A general license is hereby issued to own, receive, acquire, possess and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided:
1. Each device contains not more than ~~ten~~ 10 curies of tritium or 300 millicuries of promethium-147; and
 2. Each device has been manufactured, assembled or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled in accordance with the specifications contained in a specific license or equivalent licensing document issued by the Division or an Agreement State to the manufacturer or assembler of such device pursuant to licensing requirements equivalent to those in Section 32.53 of 10 CFR Part 32.
- (b) Persons who own, receive, acquire, possess or use luminous safety devices pursuant to the general license in subparagraph (a) of this paragraph (3) are exempt from the requirements of Chapter ~~4200-02-05 0400-20-05~~, except that they shall comply with the provisions of ~~4200-02-05-140 Rules 0400-20-05-140 and 4200-02-05-141 0400-20-05-141.~~
- (c) This general license does not authorize the manufacture, assembly or repair of luminous safety devices containing tritium or promethium-147.
- (d) This general license does not authorize the ownership, receipt, acquisition, possession or use of promethium-147 contained in instrument dials.
- (e) The general license provided in this paragraph is subject to the provisions of ~~4200-02-10-16 Rules 0400-20-10-16 through 4200-02-10-30 0400-20-10-30~~, as applicable.
- (4) Calibration and reference sources.
- (a) A general license is hereby issued to those persons listed below to own, receive, acquire, possess, use and transfer, in accordance with the provisions of subparagraphs (d) and (e) of this paragraph (4), americium-241 in the form of calibration or reference sources:
1. Any person who holds a specific license issued by the Division that authorizes the receipt, possession, use and transfer of radioactive materials; and
 2. Any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission which authorizes the receipt, possessions, use and transfer of special nuclear material.
- (b) A general license is hereby issued to receive, possess, use and transfer plutonium in the form of calibration or reference sources in accordance with the provisions of subparagraph (d) and (e) of this paragraph (4) to any person who holds a specific license issued by the Division which authorizes him to receive, possess, use and transfer radioactive material.

- (c) A general license is hereby issued to own, receive, possess, use and transfer radium-226 in the form of calibration or reference sources in accordance with the provisions of subparagraph (d) and (e) of this paragraph to any person who holds a specific license issued by the Division which authorizes him to receive, possess, use, and transfer radioactive material.
- (d) The general licenses in subparagraphs (a), (b) and (c) of this paragraph apply only to calibration or reference sources which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission pursuant to Section 32.57 of 10 CFR, Part 32 or Section 70.39 of 10 CFR, Part 70 or which have been manufactured in accordance with the specifications contained in a specific license issued to the manufacturer by the Division or any Agreement State or Licensing State pursuant to licensing requirements equivalent to those contained in Section 32.57 of 10 CFR, Part 32 or Section 70.39 of 10 CFR, Part 70.
- (e) The general licenses provided in subparagraphs (a), (b) and (c) of this paragraph are subject to the provisions of ~~1200-02-10-16~~ Rules 0400-20-10-16, 1200-02-10-22 0400-20-10-22, 1200-02-10-23 0400-20-10-23, 1200-02-10-26 0400-20-10-26, 1200-02-10-27 0400-20-10-27, 1200-02-10-28 0400-20-10-28, 1200-02-10-30 and 0400-20-10-30, and Chapters 1200-02-04 0400-20-04 and 1200-02-05 of these regulations 0400-20-05. In addition, persons who own, receive, acquire, possess, use and transfer one or more calibration or reference sources pursuant to these general licenses:
1. Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of americium-241, 5 microcuries of plutonium or 5 microcuries of radium-226 in such sources;
 2. Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes one of the following statements, as appropriate, or a similar statement which contains the information called for in one of the following statements, as appropriate:
 - (i) The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS
SOURCE CONTAINS (AMERICIUM-241) (PLUTONIUM)⁸.
DO NOT TOUCH RADIOACTIVE
PORTION OF THIS SOURCE

(name of manufacturer or importer)

- (ii) The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of a Licensing State. Do not remove this label.

CAUTION - RADIOACTIVE MATERIAL - THIS
SOURCE CONTAINS RADIUM-226.
DO NOT TOUCH RADIOACTIVE
PORTION OF THIS SOURCE

⁸ Showing only the name of the appropriate material.

(name of manufacturer or importer)

3. Shall not transfer, abandon or dispose of such source except by transfer to a person authorized by a license from the Division, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to receive the source;
4. Shall store such source, except when the source is being used, in a closed container adequately designed and constructed to contain americium-241, plutonium or radium-226 which might otherwise escape during storage; and
5. Shall not use such source for any purpose other than the calibration of radiation detectors or the standardization of other sources.

(f) These general licenses do not authorize the manufacture of calibration or reference sources containing americium-241, plutonium or radium-226.

(5) Ownership of radioactive material.

A general license is hereby issued to own radioactive material without regard to quantity. Notwithstanding any other provisions of this Chapter, this general license does not authorize the manufacture, production, transfer, receipt, possession or use of radioactive material.

(6) Ice detection devices.

(a) A general license is hereby issued to own, receive, acquire, possess, use and transfer strontium-90 contained in ice detection devices, provided each device contains not more than ~~forty~~ 50 microcuries of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured in accordance with the specifications contained in a specific license or equivalent licensing document issued by the Division or any Agreement State to the manufacturer of such device pursuant to licensing requirements equivalent to those in Section 32.61 of 10 CFR, Part 32 of the regulations of the U.S. Nuclear Regulatory Commission.

(b) Persons who own, receive, acquire, possess, use or transfer strontium-90 contained in ice detection devices pursuant to the general license in subparagraph (a) of this paragraph ~~(6)~~:

1. Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating to the device, discontinue use of the device until it has been inspected, tested for leakage and repaired by a person holding a specific license or equivalent licensing document from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service such devices; or shall dispose of the device pursuant to the provisions of these regulations;
2. Shall assure that all labels affixed to the device at the time of receipt, and which bear a statement which prohibits removal of the labels, are maintained thereon;
3. Are exempt from the requirements of Chapter ~~1200-02-05 of these regulations~~ 0400-20-05 except that such persons shall comply with the provisions of ~~1200-02-05-120~~ paragraph (1) of Rule 0400-20-05-120, 1200-02-05-140 Rule 0400-20-05-140 and 1200-02-05-141 Rule 0400-20-05-141.

(c) This general license does not authorize the manufacture, assembly, disassembly or repair of strontium-90 sources in ice detection devices.

- (d) The general license provided in this paragraph is subject to the provisions of ~~1200-02-10-16~~ Rules 0400-20-10-16, 1200-02-10-22, 0400-20-10-22, 1200-02-10-23, 0400-20-10-23, 1200-02-10-26, 0400-20-10-26, 1200-02-10-27, 0400-20-10-27, 1200-02-10-28, 0400-20-10-28, 1200-02-10-30 and 0400-20-10-30.

(7) Radioactive material for certain in vitro clinical or laboratory testing.

- (a) A general license is hereby issued to any physician, veterinarian in the practice of veterinary medicine, clinical laboratory or hospital to receive, acquire, possess, transfer or use, for any of the following stated tests, in accordance with the provisions of subparagraphs (b), (c), (d), (e) and (f) of this paragraph ~~(7)~~, the following radioactive materials in prepackaged units for use in "in vitro" clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

1. Iodine-125, in units not exceeding 10 microcuries each.
2. Iodine-131, in units not exceeding 10 microcuries each.
3. Carbon-14, in units not exceeding 10 microcuries each.
4. Hydrogen-3 (tritium), in units not exceeding 50 microcuries each.
5. Iron-59, in units not exceeding 20 microcuries each.
6. Cobalt-57, in units not exceeding 10 microcuries each.
7. Selenium-75, in units not exceeding 10 microcuries each.
8. Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcurie of iodine-129 and 0.005 microcurie of americium-241 each.

- (b) No person shall receive, acquire, possess, use or transfer radioactive material pursuant to the general license established by subparagraph (a) of this paragraph ~~(7)~~ until he has filed an application for and received from the Division a copy of Form RHS 8-51 with number assigned. The general licensee shall furnish on the application the following information and such other information as may be required by that form:

1. Name and address of the licensee;
2. The location of use; and
3. A statement that the licensee has appropriate radiation measuring instruments to carry out "in vitro" clinical or laboratory tests with radioactive materials as authorized under this general license and that such tests will be performed only by personnel competent in the use of such instruments and in the handling of the radioactive materials.

- (c) A person who receives, acquires, possesses or uses radioactive material pursuant to this general license shall comply with the following:

1. The general licensee shall not possess at any one time, pursuant to this general license, at any one location of storage or use, a total amount of iodine-125, iodine-131, cobalt-57, selenium-75 and/or iron-59 in excess of 200 microcuries.
2. The general licensee shall store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection.

3. The general licensee shall use the radioactive material only for the uses authorized by subparagraph (a) of this paragraph ~~(7)~~.
 4. The general licensee shall not transfer the radioactive material except by transfer to a person authorized to receive it by a license pursuant to this Chapter ~~4200-02-10~~, from the U.S. Nuclear Regulatory Commission, or an Agreement State or Licensing State nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.
 5. The general licensee shall dispose of the Mock Iodine - 125 reference or calibration sources described in subparagraph (a) of this paragraph ~~(7)~~ as required by ~~4200-02-06-120~~ Rule 0400-20-05-120.
- (d) The general licensee shall not receive, acquire, possess or use radioactive material pursuant to subparagraph (a) of this paragraph ~~(7)~~:
1. Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued by the Division, the U.S. Nuclear Regulatory Commission, an Agreement State or Licensing State that authorizes manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59, or Mock Iodine-125 to persons generally licensed; and
 2. Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:
 - (i) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for "in vitro" clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority.

(name of manufacturer)
 - (ii) This radioactive material may be received, acquired, possessed, and used only by physicians, veterinarians in the practice of veterinary medicine, clinical laboratories or hospitals and only for "in vitro" clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

(name of manufacturer)
- (e) Licensees possessing or using radioactive materials under this general license shall report in writing to the Director, Division of Radiological Health, at the address in Rule ~~4200-02-04-07~~ 0400-20-04-07, any changes in information furnished in the application submitted under subparagraph ~~4200-02-10-10(7)~~ (b) of this paragraph. The report shall be furnished within 30 days after the effective date of such change.

- (f) Any person using radioactive material pursuant to this general license is exempt from the requirements of Chapter ~~1200-02-05~~ 0400-20-05 with respect to radioactive materials covered by this general license, except that such person using the Mock Iodine-125 described in part (a)8 of this paragraph shall comply with the provisions of ~~1200-02-05-120~~ Rules 0400-20-05-120, ~~1200-02-05-140~~ 0400-20-05-140, and ~~1200-02-05-141~~ 0400-20-05-141.
- (8) Self Luminous Products Containing Radium-226
- (a) A general license is hereby issued to any person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subparagraphs (b) through (d) of this paragraph, radium-226 contained in the following products manufactured prior to ~~the effective date of these rules~~ December 8, 2011.
1. Antiquities originally intended for use by the general public.

For the purposes of this paragraph, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.
 2. Intact timepieces containing greater than 0.037 MBq (1 μ Ci), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.
 3. Luminous items installed in air, marine, or land vehicles.
 4. All other luminous products provided that no more than 100 items are used or stored at the same location at any one time.
 5. Small radium sources containing no more than 0.037 MBq (1 μ Ci) of radium-226.

For the purposes of this paragraph, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.
- (b) Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in subparagraph (a) of this paragraph are exempt from the provisions of Chapters ~~1200-02-04~~ 0400-20-04 and ~~1200-02-05~~ 0400-20-05, and Rule ~~1200-02-10-26~~ 0400-20-10-26, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this Chapter.
- (c) Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in subparagraph (a) of this paragraph shall:
1. Notify the Division should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material (a report containing a brief description of the event, and the remedial action taken, must be furnished to the Division at the address listed in Rule ~~1200-02-04-07~~ 0400-20-04-07 within ~~thirty~~ 30 days);
 2. Not abandon products containing radium-226 (the product, and any radioactive material from the product, may only be disposed of according to Rule ~~1200-02-05-127~~ of these regulations 0400-20-05-127 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the NRC or an