

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Department of Mental Health and Developmental Disabilities

DIVISION: Division of Intellectual and Developmental Disabilities

SUBJECT: Methodology Utilized to Determine Payments to Service Providers

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 33-1-204 and 33-1-309

EFFECTIVE DATES: June 17, 2013 - December 14, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: Medicare and Medicaid have approved three new home and community based waiver services. These emergency rules create a mechanism for the department to pay contracted providers for these new services. Additionally, these new waiver services bring the department into compliance with the requirements of the Arlington Exit Plan, which arose from a federal lawsuit that is currently pending in the Western District of Tennessee. In response to this lawsuit, the state has agreed upon implementing additional criteria for new waiver services, which are incorporated into these rules.

Impact on Local Governments

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

The changes identify three new services. Two of these, Semi-independent Living and Intensive Behavioral Residential, are new services and are anticipated to have little impact on the provider community. The third, In Home Day Services, takes a previously available service that could be provided in the home under certain circumstances and requires that utilization be specifically identified. In addition to service utilization, the transportation component, which will not be provided in the home environment, was removed from the rate.

§ 4-5-228. Statement of financial impact

(a) On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues. If the statement says that the rule or regulation has a financial impact on local governments, the general assembly may request representatives of any affected local government to testify concerning its impact.

(b) The proposing agency shall submit a copy of the statement provided in subsection (a) to the secretary of state.

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Sequence Number: 06-07-13
Rule ID(s): 5490
File Date (effective date): 6/17/13
End Effective Date: 12/14/13

Emergency Rule Filing Form

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

Agency/Board/Commission:	Department of Mental Health and Developmental Disabilities
Division:	Division of Intellectual and Developmental Disabilities
Contact Person:	Richard R. Prybilla
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Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment

New

Repeal

Statement of Necessity:

This statement is made in accordance with T.C.A. §4-5-201 *et seq.*, It is the finding by the Department of Intellectual and Developmental Disabilities, that the foregoing rules Methodology Utilized to Determine Payments to Service Providers (Rate Structure) should be effective immediately as emergency rules. The Department of Intellectual and Developmental Disabilities is required pursuant to T.C.A. §33-1-309 (d) to promulgate its rate/payment methodologies by rule. Without this rule, the Department would not have a mechanism by which to pay contracted Home and Community Based Waiver providers.

These emergency rules are necessary for the Commissioner of the Department of Intellectual and Developmental Disabilities to promulgate as a result of three new Home and Community Based Waiver services being approved by the Centers for Medicare and Medicaid Services (CMS), namely: Intensive Behavioral Residential Services; Semi-Independent Living; and In-Home Day Services. Without the promulgation of these emergency rules, the Department of Intellectual and Developmental Disabilities would not have a mechanism by which to pay contracted providers to provide these new services. These emergency rules are also necessary for the Department of Intellectual and Developmental Disabilities to provide home and community based services for people with intellectual and developmental disabilities to avoid institutionalization.

Also, under the Federal lawsuit, *People First of Tenn. v. Arlington Developmental Center*, an "Exit Plan" has been developed in an attempt to resolve the plaintiff's concerns. The Arlington Exit Plan includes two of the new services which are incorporated into this rule (Intensive Behavioral Residential Model and Semi-Independent Living). Therefore, these emergency rules are necessary to be in compliance with the requirements of the Arlington Exit Plan.

For a copy of this public necessity rule contact: Michelle Stephenson, Legal Assistant, Department of Intellectual and Developmental Disabilities, (615) 253-2025.

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
0940-04-03	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	Rule Title
0940-04-03-.01	Purpose
0940-04-03-.02	Scope
0940-04-03-.03	Definitions
0940-04-03-.04	Rate Setting Methodologies for Medical, Residential Services
0940-04-03-.05	Rate Setting Methodologies for Intensive Behavioral Residential Services

Chapter Number	Chapter Title
0940-04-03	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	Rule Title
0940-04-03-.06	Rate Setting Methodologies for Residential and Supported Services
0940-04-03-.07	Rate Setting Methodologies for Semi-Independent Living Services
0940-04-03-.08	Special Needs Adjustments
0940-04-03-.09	Rate Setting Methodologies for Day Services
0940-04-03-.10	Rate Setting Methodologies for Day Services- In Home Day

Chapter Number	Chapter Title
0940-04-03	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	Rule Title
0940-04-03-.11	Rate Setting Methodologies for Clinical Services
0940-04-03-.12	Rate Setting Methodologies for Respite and Personal Assistance Services
0940-04-03-.13	Rate Setting Methodologies for Dental Services
0940-04-03-.14	Rate Setting Methodologies for Personal Emergency Response Systems
0940-04-03-.15	Rate Setting Methodologies for Specialized Medical Equipment and Supplies

Chapter Number	Chapter Title
0940-04-03	Methodology Utilized To Determine Payments To Service Providers (Rate Structure)
Rule Number	Rule Title
0940-04-03-.16	Rate Setting Methodologies for Environmental Modifications
0940-04-03-.17	Rate Setting Methodologies for Vision Services
0940-04-03-.18	Rate Setting Methodologies for Independent Support Coordination
0940-04-03-.19	Rate Setting Methodologies for Services Funded Exclusively by the State [Non-Waiver, State Funded (NWSF) Services]

Rule 0940-04-03 is amended by deleting entire rule and replacing with the following new language:

(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>)

0940-04-03-.01 PURPOSE.

- (1) This chapter establishes a rate setting methodology for Residential Day and other Services that are provided through the Department of Intellectual and Developmental Disabilities.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-302 & 303; 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.02 SCOPE.

- (1) All of the rate methodologies used to determine payments to service providers set forth in these rules are subject to the availability of appropriations established in the TennCare budget for home and community based services provided under the State's approved HCBS waivers for individuals with intellectual disabilities and may be adjusted by the Department or by TennCare as necessary to assure that expenditures for these services are within and do not exceed the budgeted amount for waiver services that year; and also the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.03 DEFINITIONS.

- (1) As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:
 - (a) "Administrative Costs" are the allowable percentage of the service rate that includes, for example, the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.
 - (b) "Direct Service Costs" are the costs for direct service such as staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, training, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.
 - (c) "Full Time Equivalent (FTE)" means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) annual days of payment to cover service recipient absences.
 - (d) "Non-Direct Program Costs" is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.
 - (e) "Rate" is the amount paid per person to approved service providers for each unit of a DIDD service that is provided. A rate unit may be a portion of an hour, a day, a month, an item or a job, depending on the type of service.
 - (f) "Rate Levels" are the series of rates for residential, day and other services that are based on a service recipient's needs and the size or site of the service setting.
 - (g) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgment of estimated hours of direct support staff assistance required for individuals at each rate level.
 - (h) "Rate Setting Methodology" is the manner in which the rates for residential, day and other services are calculated or determined.
 - (i) "Special Needs Adjustment" is an additional payment that may, within the discretion of the Division and subject to resource availability, be added to the residential rate for an individual in appropriate circumstances, e.g. periodic crisis that require additional support.
 - (j) "Uniform Cost Report" is a report relating to costs and/or operating expenses/revenues completed by providers that is submitted as required by the Division of Intellectual Disabilities Services. The Uniform Cost Report is completed and transmitted in the manner, format and timeframe required by the Division.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14,*

2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 15, 2010; effective February 3, 2011.

0940-04-03-.04 RATE SETTING METHODOLOGIES FOR MEDICAL, RESIDENTIAL SERVICES.

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per day.
2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.
4. Add together the hourly cost for direct support staff and the hourly cost for supervision.
5. Multiply the result from Step four by one and the % allowed for non-direct program costs.
6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.
8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
2. Divide the result of Step one by the facility size.
3. Multiply the result of Step two by 385 (to allow for 20 absent days).
4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of*

Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

0940-04-03-.05 RATE SETTING METHODOLOGIES FOR INTENSIVE BEHAVIORAL RESIDENTIAL SERVICES.

- (1) Includes Behavioral Analyst Services.
- (2) For residential services that are shift staffed, staff coverage is calculated as follows:
 - (a) 168 hours per week---7 days at 24 hours per day.
 - (b) The unit of service for these residential services is a day.
- (3) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:
 - (a) Allowable hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
 - (b) Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
 - (c) Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.
 - (d) Add together the hourly cost for direct support staff and the hourly cost for supervision.
 - (e) Multiply the result from Step four by one and the % allowed for non-direct program costs.
 - (f) Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
 - (g) Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.
 - (h) Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
 - (i) Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.
- (4) Calculation for the daily rate per person is:
 - (a) For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
 - (b) Divide the result of Step (a) by the facility size.
 - (c) Multiply the result of Step (b) by 385 (to allow for 20 absent days).
 - (d) Divide the result of Step (c) by 365 to arrive at the program costs.

- (e) Add an allowance for BA services to the program component to the step above (d) to determine the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. **Administrative History:** Emergency rule filed _____; effective through _____.*

0940-04-03-.06 RATE SETTING METHODOLOGIES FOR RESIDENTIAL AND SUPPORTED LIVING.

(1) Residential Habilitation and Supported Living (Shift-Staffed) Model.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per day is equal to one week
2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
2. Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
3. Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.
4. Add together the hourly cost for direct support staff and the hourly cost for supervision.
5. Multiply the result from Step four by one and the % allowed for non-direct program costs.
6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
7. Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.
8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
2. Divide the result of Step one by the facility size.
3. Multiply the result of Step two by 385 (to allow for 20 absent days).

4. Divide the result of Step three by 365 to arrive at the daily rate.

(2) Supported Living-Companion Model

(a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.
2. Add the companion room and board allowance.
3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
4. Add costs in steps one through three.
5. Multiply the result of step four by one and the % for non-direct program costs.
6. Multiply the result of step five by one and the % for administrative costs.
7. Divide the result of step six by 365.
8. Multiply the result of step seven by 385 (to allow for 20 absent days).
9. Divide the result of step eight by 365 to arrive at the daily rate.

(3) Family Model for Residential Services

(a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.

(b) Calculate the daily rate per person.

1. Multiply the annual stipend by one and the % for benefits.
2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.
4. Add costs in steps 1 through 3 above.
5. Multiply the result of step four by one and the percent for non-direct program costs.
6. Multiply the result of step five by one and the percent for administrative costs.
7. Divide the result of step six by 365 days.
8. Multiply the result of step seven by 385 days (to allow for 20 absent days).
9. Divide the result of step eight by 365 days to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare.* **Administrative History:** *Public necessity rules 0940-04-03-.01 through 0940-04-*

03-14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

0940-04-03-.07 RATE SETTING METHODOLOGIES FOR SEMI-INDEPENDENT LIVING SERVICES.

- (1) Calculation for Semi-Independent Living Services is:
 - (a) The unit of service for these residential services is a month.
 - (b) Average monthly hours of service were used to calculate the rate.
 - (c) The average monthly hours are inclusive of on-call services.
 - (d) The PA quarter hour reimbursement was used in determining the monthly rate.
- (2) Take amount in Step above and add an allowance for transportation costs to determine the maximum rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. **Administrative History:** Emergency rule filed____; effective through _____.*

0940-04-03-.08 SPECIAL NEEDS ADJUSTMENTS.

- (1) An adjustment up to an additional thirty-five dollars (\$35.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.
- (2) An adjustment of twenty dollars (\$20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.
- (3) This adjustment may be used for additional staff coverage or higher wages for staff.
- (4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:
 - (a) The individual has a history of significant behavioral or psychiatric problems such as DSM-IV diagnosis, violent acting out, serious self-injury or danger to others that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.
 - (b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.
 - (c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special

adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

0940-04-03-.09 RATE SETTING METHODOLOGIES FOR DAY SERVICES.

- (1) Calculation for day services is:
 - (a) The unit of service is a day.
 - (b) For day services staff coverage is calculated for 6 hours per day for 243 days per year.
- (2) The cost models are calculated with the following direct service cost factors:
 - (a) Non-direct program costs at the allowable percentage.
 - (b) Administrative costs at the allowable percentage.
 - (c) Transportation costs per day per person.
 - (d) Twenty (20) leave days.
 - (e) Rate Level Factor based on service setting and the need of the individual.
 - (f) Day Service settings (except in In Home Day Services) include day habilitation facilities, community locations and community employment locations.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3,

2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.10 RATE SETTING METHODOLOGIES FOR DAY SERVICES – IN HOME DAY.

- (1) Calculation for day services – home day per person is:
 - (a) The unit of service is a day.
 - (b) For day services staff coverage is calculated for 6 hours per day for 243 days per year.
- (2) The cost models are calculated with the following direct service cost factors:
 - (a) Non-direct program costs at the allowable percentage.
 - (b) Administrative costs at the allowable percentage.
 - (c) Twenty (20) leave days.
 - (d) Rate level factor based on service setting and the need of the individual.
 - (e) This Day Service setting is limited to the home and has no transportation cost included.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. **Administrative History:** Emergency rule filed ____; effective through _____.*

0940-04-03-.11 RATE SETTING METHODOLOGIES FOR CLINICAL SERVICES.

- (1) The unit for therapy and nursing services is a quarter hour.
- (2) The Unit for behavioral services is one quarter (1/4) of an hour.
- (3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective*

February 3, 2011.

0940-04-03-.12 RATE SETTING METHODOLOGIES FOR RESPITE AND PERSONAL ASSISTANCE SERVICES.

- (1) The unit for respite and personal assistance services may be one quarter (1/4) of an hour or daily rates as determined by DIDD.
- (2) The determination of rates in this section (.09) is calculated based on units of one quarter (1/4) of an hour for one (1) staff person or of one day of allowable direct service costs for one (1) staff person and a percentage of administrative costs. Reimbursement for two (2) staff to deliver services to one (1) service recipient at the same time is not covered under any circumstances.
- (3) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Personal Assistance.
- (4) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Respite services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.13 RATE SETTING METHODOLOGIES FOR DENTAL SERVICES.

- (1) Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 27, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

0940-04-03-.14 RATE SETTING METHODOLOGIES FOR PERSONAL EMERGENCY RESPONSE SYSTEMS.

- (1) Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare.* **Administrative History:** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*

0940-04-03-.15 RATE SETTING METHODOLOGIES FOR SPECIALIZED MEDICAL EQUIPMENT AND SUPPLIES.

- (1) Rates paid are the usual and customary costs for the equipment or supplies.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare.* **Administrative History:** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*

0940-04-03-.16 RATE SETTING METHODOLOGIES FOR ENVIRONMENTAL MODIFICATIONS.

- (1) Rates paid are the usual and customary costs for the modification.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare.* **Administrative History:** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011.*

Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

0940-04-03-.17 RATE SETTING METHODOLOGIES FOR VISION SERVICES.

- (1) Rates paid are a combination of the usual and customary charges for examination and corrective lenses.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.18 RATE SETTING METHODOLOGIES FOR INDEPENDENT SUPPORT COORDINATION SERVICES.

- (1) Current rates in this category are found at Rule 0620-06-03-.04 (h) and were derived after consideration of provider input, resource availability as well as system service requirements. Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (e.g. Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Administrative History:* Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ; effective through .

0940-04-03-.19 RATE SETTING METHODOLOGIES FOR SERVICES FUNDED EXCLUSIVELY BY THE STATE [NON-WAIVER; STATE FUNDED (NWSF) SERVICES].

- (1) Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to DIDS funding and resource availability.

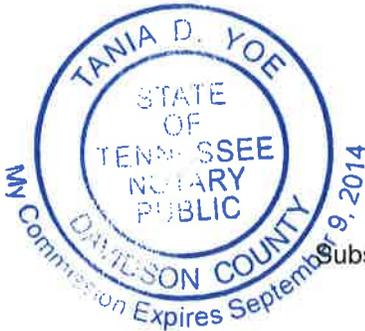
Authority *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDD federal waiver(s) for provision of services as*

administered by TennCare. **Administrative History:** Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

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



Date: 6-12-13

Signature: Debra Payne

Name of Officer: Debra Payne

Title of Officer: Commissioner

Subscribed and sworn to before me on: 6-12-13

Notary Public Signature: Tania D. Yoe

My commission expires on: 9-9-14

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

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
6-13-13
 Date

Department of State Use Only

Filed with the Department of State on: 6/17/13

Effective for: 180 *days

Effective through: 12/14/13

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

Tre Hargett
 Tre Hargett
 Secretary of State

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**RULE
OF
DEPARTMENT OF MENTAL HEALTH INTELLECTUAL AND
DEVELOPMENTAL DISABILITIES DIVISION OF MENTAL RETARDATION-
SERVICES**

**CHAPTER 0940-04-03
METHODOLOGY UTILIZED TO DETERMINE PAYMENTS
TO SERVICE PROVIDERS (RATE STRUCTURE)**

TABLE OF CONTENTS

0940-04-03-.01	Purpose	0940-04-03-.11	Rate Setting Methodologies for Personal Emergency Response Systems
0940-04-03-.02	Scope	0940-04-03-.12	Rate Setting Methodologies for Specialized Medical Equipment and Supplies
0940-04-03-.03	Definitions	0940-04-03-.13	Rate Setting Methodologies for Environmental Modifications
0940-04-03-.04	Rate Setting Methodologies for Medical, Residential Services	0940-04-03-.14	Rate Setting Methodologies for Vehicle Modifications
0940-04-03-.05	Rate Setting Methodologies for Residential and Supported Living	0940-04-03-.15	Rate Setting Methodologies for Vision Services
0940-04-03-.06	Special Needs Adjustments	0940-04-03-.16	Rate Setting Methodologies for Independent Support Coordination Services
0940-04-03-.07	Rate Setting Methodologies for Day Services	0940-04-03-.17	Rate Setting Methodologies for Services Funded Exclusively by the State [Non- Waiver State Funded (NWSF) Services]
0940-04-03-.08	Rate Setting Methodologies for Clinical Services		
0940-04-03-.09	Rate Setting Methodologies for Respite and Personal Assistance Services		
0940-04-03-.10	Rate Setting Methodologies for Dental Services		

TABLE OF CONTENTS

0465-01-02-.01	Purpose	0465-01-02-.13	Rate Setting Methodologies for Dental Services
0465-01-02-.02	Scope	0465-01-02-.14	Rate Setting Methodologies for Personal Emergency Response Systems
0465-01-02-.03	Definitions	0465-01-02-.15	Rate Setting Methodologies for Specialized Medical Equipment and Supplies
0465-01-02-.04	Rate Setting Methodologies for Medical, Residential Services	0465-01-02-.16	Rate Setting Methodologies for Environmental Modifications
0465-01-02-.05	Rate Setting Methodologies for Intensive Behavioral Residential Services	0465-01-02-.17	Rate Setting Methodologies for Vision Services
0465-01-02-.06	Residential and Supported Services	0465-01-02-.18	Rate Setting Methodologies for Independent Support Coordination
0465-01-02-.07	Rate Setting Methodologies for Semi- Independent Living Services	0465-01-02-.19	Rate Setting Methodologies for Services Funded Exclusively by the State [Non- Waiver; State Funded (NWSF) Services]
0465-01-02-.08	Special Needs Adjustments		
0465-01-02-.09	Rate Setting Methodologies for Day Services		
0465-01-02-.10	Rate Setting Methodologies for Day Services-In Home Day		
0465-01-02-.11	Rate Setting Methodologies for Clinical Services		
0465-01-02-.12	Rate Setting Methodologies for Respite And Personal Assistance Services		

0465-01-02-.01 0940-04-03-.01 PURPOSE.

This chapter establishes a rate setting methodology for Residential Day and other Services that are provided through the Department of Finance and Administration Division of Intellectual and Developmental Disabilities.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-302 & 303; 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and*

October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. § 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the “Reimbursement Rate” for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.** **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.**

0465-01-02.02 ~~0940-04-03-.02~~ SCOPE

These rules apply to the procedures and practices used to establish rates of payment for Residential, Day and other services acquired by the Department of Finance and Administration – Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively. All of the rate methodologies set forth in sections 0465-01-02-.04 through 0465-01-02-.18 of these rules are used to determine payments to service providers set forth in these rules are subject to the availability of appropriations established in the TennCare budget for home and community based services provided under the State’s approved HCBS waivers for individuals with intellectual disabilities and may be adjusted by the Department or by TennCare as necessary to assure that expenditures for these services are within and do not exceed the budgeted amount for waiver services that year established in the TennCare budget for home and community based services provided under the State’s approved HCBS waivers for individuals with intellectual disabilities and may be adjusted by the Department or by TennCare as necessary to assure that expenditures for these services are within and do not exceed the budgeted amount for waiver services that year. ~~These rules apply to the procedures and practices used to establish rates of payment for Residential, Day and other services acquired by the Department of Finance and Administration – Division of Intellectual Disabilities Services for or on behalf of those persons served by it under its various Medicaid Waivers; and also the provisions of Title 33 and 34 of the Tennessee Code Annotated; and, Executive Orders of the State of Tennessee Nos. 9, 10, 21 and 23, dated February 7, 1996, October 14, 1996, July 29, 1999 and October 19, 1999, respectively.~~

Authority: Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the “Reimbursement Rate” for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.** **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.**

0465-01-02-.03 ~~0940-04-03-.03~~ DEFINITIONS.

As used in these rules, unless the context indicates otherwise, the terms listed below have the following meaning:

- (1) "Administrative Costs" are the allowable percentage of the service rate that includes, for example, the costs for administrative salaries and benefits, home office costs, office supplies and printing, phone and other communication, travel and conference, advertising, professional services, licensure and dues, legal and accounting fees, interest, depreciation, occupancy, general liability insurance, equipment and administrative vehicles.
- (2) "Direct Service Costs" are the costs for direct service such as staff salaries and benefits, overtime, direct supervision wages and benefits, contracted direct service/temporary help, training, recruiting/advertising, drug testing, background checks, Hepatitis B and TB tests, and other costs for direct service staff bonuses and employee appreciation events.
- (3) "Full Time Equivalent (FTE)" means the total cost for one direct support staff for forty hours. It includes direct service costs, non-direct program costs, administrative costs, and twenty (20) annual days of payment to cover service recipient absences.
- (4) "Non-Direct Program Costs" is the allowable percentage of the service rate that includes the costs for multi-site supervisors and benefits, training, off site computer/file storage, depreciation/amortization, internal monitoring, agency case management, personal funds management, healthcare oversight, specific assistance to individuals-room and board, specific assistance to individuals-non-room and board, transportation of individuals, staff travel, facility maintenance, facility supplies, habilitation supplies.
- (5) "Rate" is the amount paid per person to approved service providers for each unit of a DIDS service that is provided. A rate unit may be a portion of an hour, a day, a month, an item or a job, depending on the type of service.
- (6) "Rate Levels" are the series of rates for residential, day and other services that are based on a service recipient's needs and the size or site of the service setting.
- (7) "Rate Level Factor" is the multiplier applied to the FTE daily cost that reflects intensity of support need and number of persons in the home. Rate level factors were based on licensure requirements for staffing and professional judgment of estimated hours of direct support staff assistance required for individuals at each rate level.
- (8) "Rate Setting Methodology" is the manner in which the rates for residential, day and other services are calculated or determined.
- (9) "Special Needs Adjustment" is an additional payment that may, within the discretion of the Division and subject to resource availability, be added to the residential rate for an individual in appropriate circumstances, e.g. periodic crisis that require additional support.
- (10) "Uniform Cost Report" is a report relating to costs and/or operating expenses/revenues completed by providers that is submitted as required by the Division of Intellectual Disabilities Services. The Uniform Cost Report is completed and transmitted in the manner, format and timeframe required by the Division.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303; 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under DIDS-DIDD federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity*

rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 15, 2010; effective February 3, 2011. Emergency rule filed ____; effective through ____.

0465-01-02-.04 ~~0940-04-03-.04~~ RATE SETTING METHODOLOGIES FOR MEDICAL, RESIDENTIAL SERVICES.

(1) Medical Residential Services.

(a) For residential services that are shift-staffed, staff coverage is calculated as follows:

1. 168 hours per week—7 days at 24 hours per day.
2. The unit of service for these residential services is a day.

(b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:

1. Allowable Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
2. Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
3. Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.
4. Add together the hourly cost for direct support staff and the hourly cost for supervision.
5. Multiply the result from Step four by one and the % allowed for non-direct program costs.
6. Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
7. Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.
8. Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
9. Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.

(c) Calculation for the daily rate per person is:

1. For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
2. Divide the result of Step one by the facility size.
3. Multiply the result of Step two by 385 (to allow for 20 absent days).
4. Divide the result of Step three by 365 to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515;*

T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.**

Administrative History: Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed_____; effective through _____.**

0465-01-02-.05 ~~0940-04-03-.05~~ RATE SETTING METHODOLOGIES FOR INTENSIVE BEHAVIORAL RESIDENTIAL SERVICES.

Includes Behavioral Analyst Services.

- (1) For residential services that are shift staffed, staff coverage is calculated as follows:
 - (a) 168 hours per week---7 days at 24 hours per day.
 - (b) The unit of service for these residential services is a day.
- (2) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:
 - (a) Allowable hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
 - (b) Annual allowable salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
 - (c) Divide the cost per person per year by 52 weeks and by 168 hours to arrive at the hourly cost for supervision.
 - (d) Add together the hourly cost for direct support staff and the hourly cost for supervision.
 - (e) Multiply the result from Step four by one and the % allowed for non-direct program costs.
 - (f) Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
 - (g) Multiply the hourly cost for an FTE by 168 hours to arrive at the weekly cost for coverage.
 - (h) Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
 - (i) Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.
- (3) Calculation for the daily rate per person is:
 - (a) For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
 - (b) Divide the result of Step (a) by the facility size.
 - (c) Multiply the result of Step (b) by 385 (to allow for 20 absent days).
 - (d) Divide the result of Step (c) by 365 to arrive at the program costs.
 - (e) Add an allowance for BA services to the program component to the step above (d)

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the “Reimbursement Rate” for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010.*
Administrative History: Emergency rule filed ____; effective through _____.

0465-01-02-.06 ~~0940-04-03-.05~~ RATE SETTING METHODOLOGIES FOR RESIDENTIAL AND SUPPORTED LIVING.

(21) Residential Habilitation and Supported Living (Shift-Staffed) Model.

- (a) For residential services that are shift-staffed, staff coverage is calculated as follows:
- 138 hours per week—5 days at 18 hours per day and 2 days at 24 hours per day is equal to one week
 - The unit of service for these residential services is a day.
- (b) The calculation of the daily cost per person for a Full Time Equivalent (FTE) is:
- Hourly direct support staff wages plus % for benefits for the hourly cost for direct support staff.
 - Annual salary for direct supervision plus % for benefits divided by four residents equals the cost per person per year.
 - Divide the cost per person per year by 52 weeks and by 138 hours to arrive at the hourly cost for supervision.
 - Add together the hourly cost for direct support staff and the hourly cost for supervision.
 - Multiply the result from Step four by one and the % allowed for non-direct program costs.
 - Multiply the result from Step five by one and the % allowed for administrative costs to arrive at the hourly cost for coverage.
 - Multiply the hourly cost for an FTE by 138 hours to arrive at the weekly cost for coverage.
 - Divide the weekly cost by 7 days to arrive at the daily cost for coverage.
 - Divide the daily cost by allowable FTEs to arrive at the daily FTE cost per person.
- (c) Calculation for the daily rate per person is:
- For each Rate Level and Home Size, multiply the daily per person FTE cost by the rate level factor.
 - Divide the result of Step one by the facility size.
 - Multiply the result of Step two by 385 (to allow for 20 absent days).
 - Divide the result of Step three by 365 to arrive at the daily rate.

(2) Supported Living-Companion Model

- (a) For non-shift staffed, companion model the unit of service is a day. The calculations are as follows:
- (b) Calculate the daily rate per person.
 - 1. Multiply the annual stipend by one and the % for benefits.
 - 2. Add the companion room and board allowance.
 - 3. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
 - 4. Add costs in steps one through three.
 - 5. Multiply the result of step four by one and the % for non-direct program costs.
 - 6. Multiply the result of step five by one and the % for administrative costs.
 - 7. Divide the result of step six by 365.
 - 8. Multiply the result of step seven by 385 (to allow for 20 absent days).
 - 9. Divide the result of step eight by 365 to arrive at the daily rate.

(3) Family Model for Residential Services

- (a) Family Model Residential Services are those provided in a family home under the supervision of a residential services agency. The unit of service is a day.
- (b) Calculate the daily rate per person.
 - 1. Multiply the annual stipend by one and the % for benefits.
 - 2. Add the number of hours per year at the hourly rate for relief staff divided by 365 days.
 - 3. Add direct supervision at annual salary plus % for benefits divided by 10 individuals divided by 365 days.
 - 4. Add costs in steps 1 through 3 above.
 - 5. Multiply the result of step four by one and the percent for non-direct program costs.
 - 6. Multiply the result of step five by one and the percent for administrative costs.
 - 7. Divide the result of step six by 365 days.
 - 8. Multiply the result of step seven by 385 days (to allow for 20 absent days).
 - 9. Divide the result of step eight by 365 days to arrive at the daily rate.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for*

provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. Administrative History: Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. Emergency rule filed ____; effective through ____.

0465-01-02-.07 ~~0940-04-03-.07~~ RATE SETTING METHODOLOGIES FOR SEMI-INDEPENDENT LIVING SERVICES.

- (1) Calculation for Semi-Independent Living Services is:
 - (a) The unit of service for these residential services is a month.
 - (b) Average monthly hours of service were used to calculate the rate.
 - (c) The average monthly hours are inclusive of on-call services.
 - (d) The PA quarter hour reimbursement was used in determining the monthly rate.
- (2) Take amount in Step above and add an allowance for transportation costs to determine the maximum rate.

Authority: Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. Administrative History: Emergency rule filed ____; effective through ____.

0465-01-02-.08 ~~0940-04-03-.06~~ SPECIAL NEEDS ADJUSTMENTS.

- (1) An adjustment up to an additional thirty-five dollars (\$35.00) per day is available to Residential Habilitation and Supported Living Levels 1-4, for homes with 1-4 persons.
- (2) An adjustment of twenty dollars (\$20.00) per day is available to Residential Habilitation homes with 5 or more people except for reasons of a vacancy in the home.
- (3) This adjustment may be used for additional staff coverage or higher wages for staff.
- (4) A special needs adjustment does not change the rate level designated for the individual, but adjusts the rate level as a result of one or more of the following circumstances:
 - (a) The individual has a history of significant behavioral or psychiatric problems such as DSM-IV diagnosis, violent acting out, serious self-injury or danger to others that are now not apparent due to the design or intensity of services being received or the person has a situation that is unique and results in the need for additional resources.
 - (b) Less intensive services will likely result in recurrence of previous problems. The Regional Office must review the special adjustment at least annually.

- (c) The individual is in circumstances that are time limited but that require support(s) at a higher level than described by the Level. (For example, the person has had a serious illness, injury, or surgery that requires more support while he is recovering than the Level describes.) A special adjustment may be approved for up to ninety (90) days and may be extended for an additional ninety (90) days.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 and 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.***

~~0465-01-02-.09~~ ~~0940-04-03-.07~~ RATE SETTING METHODOLOGIES FOR DAY SERVICES.

- (1) The unit of service is a day.
- (2) For day services staff coverage is calculated for 6 hours per day for 243 days per year.
- (3) The cost models are calculated with the following direct service cost factors:
 - (a) Non-direct program costs at the allowable percentage.
 - (b) Administrative costs at the allowable percentage.
 - (c) Transportation costs per day per person.
 - (d) Twenty (20) leave days.
- (4) Rate level factor based on service setting and of need of the individual.
- (5) Day Service settings include day habilitation facilities, community locations, and community employment locations.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been**

effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. *Emergency rule filed _____; effective through _____.*

~~0465-01-02-.10 0940-04-03-.10~~ **RATE SETTING METHODOLOGIES FOR DAY SERVICES – IN HOME DAY.**

- (1) Calculation for day services – in home day per person is:
 - (a) The unit of service is a day.
 - (b) For day services staff coverage is calculated for 6 hours per day for 243 days per year.
- (2) The cost models are calculated with the following direct service cost factors:
 - (a) Non-direct program costs at the allowable percentage.
 - (b) Administrative costs at the allowable percentage.
 - (c) Twenty (20) leave days.
 - (d) Rate level factor based on service setting and the need of the individual.
 - (e) This day service setting is limited to the home and has no transportation cost included.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the “Reimbursement Rate” for Medical Services under DIDD federal waiver(s) for provision of services as administered by TennCare. Tennessee Public Chapter 1100, June 23, 2010. **Administrative History:** *Emergency rule filed _____; effective through _____.**

~~0465-01-02-.11 0940-04-03-.08~~ **RATE SETTING METHODOLOGIES FOR CLINICAL SERVICES.**

- (1) The unit for therapy and nursing services is a quarter hour.
- (2) The Unit for behavioral services is one quarter (1/4) of an hour.
- (3) The rate for clinical services is based on comparison with national rates of payment and comparable rates of payment within the State for like services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and, the “Reimbursement Rate” for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June*

30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. *Emergency rule filed _____; effective through _____.*

0465-01-02-.12 ~~0940-04-03-.09~~ RATE SETTING METHODOLOGIES FOR RESPITE AND PERSONAL ASSISTANCE SERVICES.

- (1) The unit for respite and personal assistance services may be one quarter (1/4) of an hour or daily rates as determined by ~~DIDS~~ **DIDD**.
- (2) The determination of rates in this section (.09) is calculated based on units of one quarter (1/4) of an hour for one (1) staff person or of one day of allowable direct service costs for one (1) staff person and a percentage of administrative costs. Reimbursement for two (2) staff to deliver services to one (1) service recipient at the same time is not covered under any circumstances.
- (3) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Personal Assistance.
- (4) There will be one (1) maximum rate for one-quarter (1/4) of an hour of Respite services.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. *Tennessee Public Chapter 1100, June 23, 2010.**

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. *Emergency rule filed _____; effective through _____.**

0465-01-02-.13 ~~0940-04-03-.10~~ RATE SETTING METHODOLOGIES FOR DENTAL SERVICES.

Dental Services rates are those set by TennCare for reimbursement of Medicaid funded dental care.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. *Tennessee Public Chapter 1100, June 23, 2010.**

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 27, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.*

Emergency rule filed ____; effective through ____.

**0465-01-02-.14 ~~0940-04-03-.11~~ RATE SETTING METHODOLOGIES FOR PERSONAL
EMERGENCY RESPONSE SYSTEMS.**

Rates paid are the usual and customary rates for installation and monitoring set by the company providing the service.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules;*

(Rule 0940-04-03-.11, continued)

*and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ DIDD federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.***

**0465-01-02-.15 ~~0940-04-03-.12~~ RATE SETTING METHODOLOGIES FOR SPECIALIZED MEDICAL
EQUIPMENT AND SUPPLIES.**

Rates paid are the usual and customary costs for the equipment or supplies.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~DIDD federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.***

**0465-01-02-.16 ~~0940-04-03-.13~~ RATE SETTING METHODOLOGIES FOR ENVIRONMENTAL
MODIFICATIONS.**

Rates paid are the usual and customary costs for the modification.

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules;*

and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.**

Administrative History: Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.**

~~0940-04-03-.14~~ **0940-04-03-.14 RATE SETTING METHODOLOGIES FOR VEHICLE MODIFICATIONS.**

Rates paid are the usual and customary costs for the modification.

~~**Authority:** Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under DIDS federal waiver(s) for provision of services as administered by TennCare. **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011.~~

~~0465-01-02-.17~~ **0940-04-03-.15 RATE SETTING METHODOLOGIES FOR VISION SERVICES.**

Rates paid are a combination of the usual and customary charges for examination and corrective lenses. and those set by TennCare for reimbursement of Medicaid funded vision care.

~~**Authority:** Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS~~ **DIDD** federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.** **Administrative History:** Public necessity rules 0940-04-03-.01 through 0940-04-03-.14 filed January 14, 2005; effective through June 28, 2005. Public necessity rules filed on January 14, 2005, expired June 29, 2005; chapter reverted to reserved status. Original rule filed October 20, 2005; effective January 3, 2006. Public necessity rule filed February 24, 2009; effective through August 8, 2009. Public necessity rule filed August 7, 2009; effective through February 3, 2010. Public necessity rule filed August 7, 2009 expired on February 4, 2010; rule reverted to its previous status. Emergency rule filed May 6, 2010; effective through November 2, 2010. Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.**~~

~~0465-01-02-.18~~ **0940-04-03-.16 RATE SETTING METHODOLOGIES FOR INDEPENDENT SUPPORT**

Current rates in this category ~~are found at Rule 0620-06-03-04 (h) and~~ were derived after consideration of provider input, resource availability as well as system service requirements. Future changes in amounts paid for this service will be made utilizing such tools as: consultation with stake-holders (e.g. Independent Support Coordinators, Independent Support Coordination Agencies/Organizations), review of similar services in other states, market conditions, and system needs. ~~Rates are always subject to DIDS funding/resource availability.~~

Authority: *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS DIDD~~ federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.***

~~0465-01-02-.19 0940-04-03-.17~~ **RATE SETTING METHODOLOGIES FOR SERVICES FUNDED EXCLUSIVELY BY THE STATE [NON-WAIVER; STATE FUNDED (NWSF) SERVICES.**

Rates paid are discretionary and based upon Service Recipient need, limited by system and service requirements and subject to ~~DIDS~~D funding and resource availability.

Authority *Tenn. Code Ann. (T.C.A.) §§ 33-1-309 (d); 33-1-204; Executive Orders of the State of Tennessee Nos. 9, 10, 21 & 34 dated February 7, 1996, October 14, 1996, July 29, 1999, and October 19, 1999 respectively; State of Tennessee Delegated Purchase Authority DP 10-28649-00 Reg. 515; T.C.A. §§ 33-1-302 & 303, 4-5-208 et seq. and its applicable regulations concerning emergency rules; and the "Reimbursement Rate" for Medical Services under ~~DIDS DIDD~~ federal waiver(s) for provision of services as administered by TennCare. **Tennessee Public Chapter 1100, June 23, 2010.***

Administrative History: *Emergency rule filed June 30, 2010; effective through December 27, 2010. Emergency rule filed August 6, 2010; effective through February 2, 2011. Amendment filed June 30, 2010; to have been effective November 28, 2010; amendment was petitioned on August 3, 2010. Repeal and new rule filed November 5, 2010; effective February 3, 2011. **Emergency rule filed ____; effective through ____.***

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Department of Finance and Administration

DIVISION: Bureau of TennCare

SUBJECT: Medicare Crossover Payments

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 4-5-208, 71-5-105, and 71-5-109

EFFECTIVE DATES: June 21, 2013 - December 18, 2013

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: On January 1, 2013, new federal laws and regulations went into effect that require state Medicaid programs to pay primary care medical providers and vaccine administration services enhanced rates for performing specific medical services during the calendar years of 2013 and 2014. To pay these enhanced rates, the Bureau of TennCare was required to amend its State Plan, which was approved by the Centers for Medicare and Medicaid Services on May 29, 2013. Following this approval, the Bureau must amend its rules to implement the enhanced payments.

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 rules are not anticipated to have an impact on local governments.

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For Department of State Use Only

Sequence Number: 10-21-13
Rule ID(s): 5499
File Date (effective date): 6/21/13
End Effective Date: 12/18/13

Emergency Rule Filing Form

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

Agency/Board/Commission:	Tennessee Department of finance and Administration
Division:	Bureau of TennCare
Contact Person:	George Woods
Address:	310 Great Circle Road
Zip:	37243
Phone:	(615) 507-6446
Email:	George.Woods@tn.gov

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendments

New

Repeal

Statement of Necessity:

On January 1, 2013, federal law and regulations went into effect which require state Medicaid programs to pay certain medical providers an enhanced rate for performing specific medical services during calendar years 2013 and 2014. The provider types covered by this enhanced rate are physicians with a primary specialty designation of family medicine, general internal medicine or pediatric medicine, or with a recognized subspecialty. The specific medical services covered by the requirement are primary care services including evaluation and management, and immunization administration. The required enhanced rate is based upon the Medicare payment rates in effect in 2008.

In order to provide the enhanced payment rates, the Bureau of TennCare was required to amend its State Plan. The State Plan Amendment, SPA Transmittal Number 13-001, was approved by the Centers for Medicare and Medicaid Services on May 29, 2013, with a retroactive effective date of January 1, 2013. With this approval, the Bureau must amend its rules in order to implement the enhanced payments.

T.C.A. § 4-5-208(a)(4) permits an agency to adopt an emergency rule when it is required by an agency of the federal government and the adoption of the rule through ordinary rulemaking procedure might jeopardize the loss of a federal program or funds.

For a copy of these emergency rules contact: George Woods at the Bureau of TennCare by mail at 310 Great Circle Road, Nashville, Tennessee 37243 or by telephone at (615) 507-6446.



Darin J. Gordon
Director, Bureau of TennCare
Tennessee department of Finance and
Administration

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/RuleTitle per row)

Chapter Number	Chapter Title
1200-13-17	TennCare Crossover Payments for Medicare Deductibles and Coinsurance
Rule Number	Rule Title
1200-13-17-.01	Definitions
1200-13-17-.04	Medicare Crossover Payment Methodology

(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>)

Rule 1200-13-17-.01 Definitions is amended by adding a new Paragraph (3) and renumbering the current Paragraph (3) as (4) and subsequent paragraphs renumbered accordingly so as amended the new Paragraph (3) shall read as follows:

(3) ENHANCED PAYMENT RATE shall mean the payment rate referred to in 42 U.S.C. § 1396a(a)(13)(C). Enhanced payment rates are made only to primary care providers and to providers of vaccine administration services, as defined in these rules. These rates are applicable only for dates of service between January 1, 2013, and December 31, 2014.

Rule 1200-13-17-.01 Definitions is amended by adding new renumbered Paragraphs (19) and (20) and the current Paragraphs (18) and (19) that were renumbered as (19) and (20) are renumbered as (21) and (22) and subsequent paragraphs renumbered accordingly so as amended the new Paragraphs (19) and (20) shall read as follows:

(19) PRIMARY CARE PROVIDERS shall mean, for purposes of the enhanced payment rate, as defined in these rules, primary care providers practicing in family medicine, general internal medicine, pediatric medicine, and related subspecialists who meet requirements as described in 42 C.F.R. § 447.400(a). In accordance with policies set forth by the Bureau of TennCare, these providers must adequately demonstrate to an MCO or the Bureau of TennCare that they meet the minimum board certification requirements and/or that 60 percent of the services they provide represent the eligible codes identified in these rules as primary care or vaccine administration services.

(20) PRIMARY CARE SERVICES are services for which enhanced payment rates, as defined in these rules, will be paid for dates of service between January 1, 2013, and December 31, 2014. The procedure codes for these services, as published in the American Medical Association's Current Procedural Terminology (2013 edition), are Evaluation and Management Codes 99201 through 99499, or their successor codes.

Paragraph (23) TENNCARE MAXIMUM FEE renumbered as Paragraph (26) of Rule 1200-13-17-.01 Definitions is amended by adding a sentence at the end of the paragraph so as amended the renumbered Paragraph (26) shall read as follows:

(2623) TENNCARE MAXIMUM FEE shall mean the maximum amount considered by TennCare for reimbursement of a particular Medicare-covered service. The TennCare maximum fee is 85% of the Cigna Medicare fee schedule amount for participating providers that was in effect on January 1, 2008. For Medicare-covered services that were introduced after January 1, 2008, and that therefore had no Medicare fee schedule amount in effect on that date, the TennCare maximum fee is 85% of the Medicare fee schedule amount for the participating providers that was in effect on the date the service was introduced.

Rule 1200-13-17-.01 Definitions is amended by adding new renumbered Paragraphs (29), (30) and (31) and subsequent Paragraph (26) renumbered as (29) is renumbered as (32) so as amended the new Paragraphs (29), (30), and (31) shall read as follows:

29) TENNCARE PRIMARY CARE ALLOWABLE shall mean 100% of the designated Medicare Cost-Sharing amounts for primary care services provided by primary care providers as defined in these rules during Calendar Years (CY) 2013 and 2014.

(30) TENNCARE VACCINATION ADMINISTRATION ALLOWABLE shall mean 100% of the designated Medicare Cost-Sharing amounts for vaccine administration services provided by primary care providers as defined in these rules during Calendar Years (CY) 2013 and 2014.

(31) VACCINE ADMINISTRATION SERVICES are services for which enhanced payment rates, as defined in these rules, will be paid for dates of service between January 1, 2013, and December 31, 2014. The procedure codes for these services, as published in the American Medical Association's Current Procedural Terminology (2013 edition), are Vaccine Administration Codes 90460, 90461, 90471, 90472, 90473, and 90474 or their successor codes.

Paragraph (1) of Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by adding the phrase "lesser of (a) billed charges or (b) the" after the words "pay the" so as amended Paragraph (1) shall read as follows:

- (1) On crossover claims for professional services and procedures with dates of service on or after July 1, 2008, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

Paragraph (2) of Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by adding the phrase "lesser of (a) billed charges or (b) the" after the words "pay the" so as amended Paragraph (2) shall read as follows

- (2) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to non-FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

Paragraph (3) of Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by adding the phrase "lesser of (a) billed charges or (b) the" after the words "pay the" so as amended Paragraph (3) shall read as follows

- (3) On crossover claims for Medicare Part B pharmacy services provided by pharmacy providers, as defined in these rules, to FBDEs with dates of service on or after July 1, 2009, TennCare will pay the lesser of (a) billed charges or (b) the TennCare pharmacy allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

Rule 1200-13-17-.04 Medicare Crossover Payment Methodology is amended by adding new Paragraphs (4) and (5) and the current Paragraph (4) renumbered as (6) and subsequent paragraph renumbered accordingly so as amended Paragraph (4) and (5) shall read as follows:

- (4) On crossover claims for primary care services, as defined in these rules, TennCare will pay an enhanced payment rate for dates of service between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare primary care allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.
- (5) On crossover claims for vaccine administration services, as defined in these rules, TennCare will pay an enhanced payment rate for services between January 1, 2013, and December 31, 2014. The enhanced payment rate will be the lesser of (a) billed charges or (b) the TennCare vaccination administration allowable, as defined in these rules, less the Medicare paid amount, less any third party liability.

Statutory Authority: T.C.A. §§ 4-5-208, 71-5-105 and 71-5-109.

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

Date: 6/17/2013

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 6/17/13

Notary Public Signature: Cheryl D Kline

My commission expires on: 8/23/16

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

Robert E. Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
6-20-13
Date

Department of State Use Only

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SECRETARY OF STATE

Filed with the Department of State on: 6/12/13

Effective for: 180 *days

Effective through: 12/18/13

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

[Handwritten Signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Department of Health
<u>AGENCY/BOARD/COMMISSION</u>	Health Services Administration
<u>DIVISION:</u>	Communicable and Environmental Disease Services
<u>SUBJECT:</u>	Immunization Against Certain Diseases Prior to School Attendance in Tennessee
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 4-5-202, 49-6-5001, 49-6-5002(a), 49-6-5003, 68-1-103, 68-5-103 and 68-5-105(a)
<u>EFFECTIVE DATES:</u>	November 28, 2013 through June 30, 2014
<u>FISCAL IMPACT:</u>	Minimal.
<u>STAFF RULE ABSTRACT:</u>	<p>The rule as amended authorizes the acceptance of Official Immunization Certificates that have been validated by a new tool in the state immunization registry that compares a child's immunization records available in the state registry against state requirements. Registry-validated certificates can be printed by any authorized registry user, including school nurses, without further review or signatures.</p> <p>Under the current rule, all certificates require the review and signature of a qualified healthcare provider (a licensed medical doctor or doctor of osteopathy, an advanced practice nurse or physician assistant, or a local health department). The rule as amended clarifies that a public health nurse at the local health department is also authorized to sign the certificate.</p> <p>Under the current rule, there is a 5-year waiting period between a previous tetanus booster and a tetanus, diphtheria and pertussis (Tdap) dose prior to entry into 7th grade. The rule as amended simplifies the requirement for a Tdap vaccine booster before 7th grade entry, to match the current federal guidelines for the use of this vaccine, which do not recommend any delay.</p>

The rule as amended clarifies the types of students who are required to receive hepatitis B vaccination in higher education programs where their training program will expose them to a significant risk of contact with infected blood from patients during training.

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 rule will affect small businesses in a positive way by lowering the burden attendant to the preparation of certificates of immunization.

Impact on Local Governments

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

These rule amendments are not expected to have an impact on local governments.

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Sequence Number: 06-06-13
Rule ID(s): 5489
File Date: 6/13/13
Effective Date: 11/28/13

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:	Tennessee Department of Health
Division:	Health Services Administration Communicable and Environmental Disease Services
Contact Person:	Kelly L. Moore, M.D., MPH
Address:	Cordell Hull Building, First Floor 425 5 th Avenue North Nashville, Tennessee
Zip:	37243
Phone:	615-741-9477
Email:	Kelly.moore@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
1200-14-01	Communicable and Environmental Diseases
Rule Number	Rule Title
1200-14-01-.29	Immunization Against Certain Diseases Prior to School Attendance in Tennessee.

(Rule 1200-14-01-.27, continued)

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004.

1200-14-01-.28 REPEALED.

Authority: T.C.A. §§4-5-202, 68-1-103, 68-1-104, 68-1-201, and 68-5-104. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed March 30, 2004; effective July 29, 2004. Repeal filed May 11, 2010; effective October 29, 2010.

1200-14-01-.29 IMMUNIZATION AGAINST CERTAIN DISEASES PRIOR TO SCHOOL ATTENDANCE IN TENNESSEE.

- (1) Every nursery school, day care center, Head Start center, Kindergarten, or other pre-school, day care or grades Kindergarten through twelve of any public, private, or church related school shall obtain proof of adequate immunization against diphtheria, measles (rubeola), pertussis (whooping cough), poliomyelitis, rubella, mumps, hepatitis B and tetanus on the form prescribed by the Commissioner (unless otherwise exempted by law) prior to admitting a child. It shall be the duty of the school to enforce the provisions of this regulation, subject to the exemptions as set out in T.C.A. §49-6-5001(b).
- (2) The state and county health departments are authorized to provide proof of immunization to the admissions officer of any school in the state of Tennessee. For the purpose of this subsection, "school" shall include nursery schools, Kindergartens, other pre-schools, day care centers and facilities, after school day care facilities, grades Kindergarten through twelve of any public, private or church-related schools, vocational schools, technical schools, colleges and universities. The state and county health departments are further authorized to provide proof of immunization to physicians who are evaluating a school-aged patient's immunization status.
- ~~(3) The Department shall publish an official Certificate of Immunization, ("Certificate"). A Certificate may be signed by an individual licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners, or an Advanced Practice Nurse licensed by the Board of Nursing (hereinafter "providers") or by a local health department. The Certificate may include space to record vaccinations which are routinely recommended but not required by law. Certificates shall be available online to authorized users of the Tennessee Web Immunization System (TWIS) or in hard copy to providers from local health departments or from the Department's central office.~~

(3)

- (a) The Department shall publish an official Certificate of Immunization ("Certificate"). A Certificate may be signed by an individual licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners, or an Advanced Practice Nurse licensed by the Board of Nursing (hereinafter "providers") or by a public health nurse employed by a local health department. The Certificate also may be qualified as complete without the signature of a provider if a certificate that has been validated by the Immunization Registry is printed from the state Immunization Registry, indicating the patient's immunization records in the Registry meet all criteria for compliance with the state requirements for that patient's age and grade. The Certificate may include space to record vaccinations which are routinely recommended but not required by law. Certificates shall be available online to authorized users of SIIS or in hard copy to providers from local health departments or from the Department's central office. State

(Rule 1200-14-01-.29, continued)

Immunization Registry validated certificates may be produced by all authorized users of the Registry.

(b) As stated in subparagraph (3)(a), a certificate of immunization shall be considered "signed" by a qualified provider when it bears either

1. a hard copy signature of a qualified provider; or

2. an electronic validation of completed requirements, appropriate for the child's age and education level, generated by the Tennessee Web Immunization System pursuant to a secure login process.

- (4) For each disease identified in these rules, the Department adopts the recommended immunization schedule or the "catch-up" immunization schedule (when applicable), published by the Advisory Committee on Immunization Practices (ACIP) of the U.S. Centers for Disease Control and Prevention (CDC). An individual shall be presumed to be immunized against a particular disease when the individual has been immunized in a manner consistent with the recommendations of ACIP for that disease. The Department shall make the schedule available on its website and at local health departments, and shall revise the schedule from time to time in accordance with revisions published by ACIP, and shall publish the effective dates of any revisions.
- (5) For children aged between 8 weeks and 19 months of age enrolling in child care facilities, a provider shall issue a Certificate showing a child is age-appropriately immunized in accordance with the ACIP schedule at the time of enrollment. For these children, a provider shall issue an updated Certificate at no later than 19 months of age.
- (6) A provider may issue a Temporary Certificate for a child who has not received all required vaccines, but is in the process of completing required immunizations. A Temporary Certificate must have an expiration date that is one month after the date the next required immunization is due according to the minimum acceptable ("catch-up") dose interval published on the Official Immunization Schedule. An expired Certificate is not valid proof of immunization. The school shall obtain a current Certificate no later than the expiration date of a Temporary Certificate.
- (7) A provider shall certify adequate immunization against measles, mumps and rubella for admission into any child care facility and grades Kindergarten through twelve. For purposes of this paragraph adequate immunization is defined as:
 - (a) For children 12 months of age or older admitted to a child care facility, one dose of vaccine against measles, mumps and rubella administered no earlier than 4 days before the first birthday; or
 - (b) For children admitted to grades Kindergarten through twelve, two doses of vaccine against measles, mumps and rubella, administered a minimum of 28 days apart and no earlier than 4 days before the first birthday; or
 - (c) For children 12 months of age or older, laboratory evidence of immunity against each disease.
- (8) A provider shall certify adequate immunization against *Haemophilus influenzae* type B ("Hib") for any child under the age of five years entering into any child care facility.
- (9) A provider shall certify adequate immunization against varicella, or a history of varicella disease, prior to admission of a child aged 12 months or older in licensed child care facilities. For purposes of this paragraph, adequate immunization is defined as:

(Rule 1200-14-01-.29, continued)

- (a) One dose of varicella vaccine administered no earlier than 4 days before the child's first birthday; or
 - (b) Laboratory evidence of immunity; or
 - ~~(c) A history verified by a physician, advanced practice nurse, physician's assistant or health department of varicella disease.~~
 - (c) A history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease.
- (10) A provider shall certify adequate immunization against varicella, or a history of the disease, prior to a child's entry into Kindergarten.
- (11) Effective July 1, 2010, a provider shall certify adequate immunization against varicella for any child entering Kindergarten or 7th grade, and for new enrollees into any school. For purposes of this paragraph, adequate immunization is defined as one of the following:
- (a) Two doses of varicella vaccine; administered at least 28 days apart and no earlier than 4 days before the child's first birthday; or
 - (b) Laboratory evidence of immunity; or
 - ~~(c) A history verified by a physician, advanced practice nurse, physician's assistant or health department of varicella disease.~~
 - (c) A history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease.
- (12) Effective July 1, 2010, a provider shall certify adequate immunization against pneumococcal disease for enrollment of any child under the age of five years into any child care facility.
- ~~(13) Effective October 1, 2010, a provider shall certify continued adequate immunization against tetanus, diphtheria and pertussis for any child entering the 7th grade (or, in the case of students in ungraded classrooms, any child age 13). For the purposes of this paragraph, adequate immunization is defined as a complete primary tetanus and diphtheria-containing vaccine series and a dose of vaccine against tetanus, diphtheria and pertussis administered at or after age 10 years; however, a pertussis booster dose is not required if the child has received a complete primary tetanus and diphtheria-containing vaccine series and has received a tetanus and diphtheria-containing containing booster dose within the previous five years.~~
- (13) Effective October 1, 2010, a provider shall certify continued adequate immunization against tetanus, diphtheria and pertussis for any child entering the 7th grade (or, in the case of students in ungraded classrooms, any child age 13). For the purposes of this paragraph adequate immunization is defined as a complete primary tetanus and diphtheria-containing vaccine series and a dose of vaccine against tetanus, diphtheria and pertussis administered at or after age 10 years.
- (14) Effective July 1, 2010, a provider shall certify adequate immunization against hepatitis A for any child aged 18 months or over, but under five (5) years, enrolling in child care facilities. For purposes of this paragraph, adequate immunization is defined as

(Rule 1200-14-01-.29, continued)

- (a) one dose of hepatitis A vaccine; or
 - (b) documented laboratory evidence of immunity.
- (15) Effective July 1, 2011, a provider shall certify adequate immunization against hepatitis A for any child enrolling in Kindergarten. For purposes of this paragraph, adequate immunization is defined as
- (a) two doses of hepatitis A vaccine; or
 - (b) documented laboratory evidence of immunity.
- (16) Unless exempted by law, any new full-time enrollee of a higher education institution with an enrollment greater than two hundred students who is not enrolled as a full-time distance learning student shall present proof of adequate immunization against the following diseases:
- (a) Measles, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:
 - 1. two doses of measles-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or
 - 2. laboratory evidence of immunity.
 - (b) Mumps, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:
 - 1. two doses of mumps-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or
 - 2. laboratory evidence of immunity.
 - (c) Rubella, provided that this requirement shall only apply to those students born on or after January 1, 1957; for purposes of this subparagraph, adequate immunization is defined as:
 - 1. two doses of rubella-containing vaccine, administered at least 28 days apart and no earlier than 4 days before the first birthday; or
 - 2. laboratory evidence of immunity.
 - (d) Varicella, provided that this requirement shall not become effective until July 1, 2011, and shall only apply to those students born on or after January 1, 1980. For purposes of this subparagraph, adequate immunization is defined as follows:
 - 1. two doses of varicella-containing vaccine, administered at least 28 days apart; or
 - 2. laboratory evidence of immunity; or
 - ~~3. a history verified by a physician, advanced practice nurse, physician's assistant or health department of varicella disease.~~

(Rule 1200-14-01-.29, continued)

3. a history verified by a physician, advanced practice nurse, physician's assistant or public health nurse employed by a local health department, of varicella disease. Documentation of the past illness is not required to confirm a history of disease.

(e) For purposes of this paragraph "full time" means, for an undergraduate, enrolled in twelve (12) or more educational credit hours, and for a graduate student, enrolled in nine (9) or more educational credit hours, or such lesser number as may be deemed full time by the institution. Such students may be enrolled or registered after a single dose of all required vaccines, provided that the second dose is obtained within 2 months of registration, and at least 28 days after the first dose, and provided, further, that the institution has a procedure for identifying students who have failed to obtain the necessary immunizations and for taking appropriate action to ensure compliance.

~~(17) Effective July 1, 2011, unless exempted by law, any student enrolled in a higher education institution who is a health science student expected to have patient contact shall present proof of protection against hepatitis B before patient contact begins. For purposes of this paragraph adequate immunization is defined as:~~

(17) Effective July 1, 2011, unless exempted by law, any student enrolled in a higher education institution who is a student in a school of medicine, nursing, dentistry, laboratory technology or other allied health profession shall present proof of protection against hepatitis B before such trainee is expected to perform procedures with the potential to expose them to potentially infectious blood. For purposes of this paragraph adequate immunization is defined as:

- (a) a complete hepatitis B vaccine series; or
- (b) laboratory evidence of immunity or infection

(18) An individual may be exempted from the requirements of this section only under the following circumstances:

~~(a) Where a physician licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners or a Health Department determines that a particular vaccine is contraindicated for one of the following reasons:~~

(a) Where a physician licensed by the Board of Medical Examiners, the Board of Osteopathic Examiners or a public health nurse employed by a local Health Department determines that a particular vaccine is contraindicated for one of the following reasons:

1. the individual meets the criteria for contraindication set forth in the manufacturer's vaccine package insert; or
2. the individual meets the criteria for contraindication published by the U.S. Centers for Disease Control or the ACIP;
3. in the best professional judgment of the physician, based upon the individual's medical condition and history, the risk of harm from the vaccine outweighs the potential benefit.

(b) An individual who has been exempted from a particular vaccination must comply with immunization requirements for any vaccines from which he/she has not been exempted.

(c) Where a parent or guardian, or in the case of an adult student, the student, provides to the school a written statement, affirmed under penalties of perjury, that vaccination

(Rule 1200-14-01-.29, continued)

conflicts with the religious tenets and practices of the parent or guardian, or in the case of an adult student, the student.

- (19) If the Commissioner determines that insufficient vaccine is available to meet the terms of these rules, the Commissioner shall notify providers, the Commissioners of the Departments of Education and Human Services and the public of any necessary change in immunization requirements, consistent with any changes published by ACIP. The changes will be published as a temporary addendum to the Official Immunization Schedule and individuals vaccinated in accordance with that temporary schedule will be deemed adequately immunized until the Commissioner determines, in accordance with ACIP recommendations, that sufficient vaccine is again available. When sufficient vaccine is again available, Commissioner shall so notify providers, the Commissioners of Education and Human Services and the public and reinstate the Official Immunization Schedule. The reinstated Official Immunization Schedule shall not become effective until at least 2 months after the determination that sufficient vaccination is again available.

Authority: T.C.A. §§4-5-202, 49-6-5001, 49-6-5002(a), 49-6-5003, 68-1-103, 68-5-103 and 68-5-105(a).

Administrative History: Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987. Amendment filed April 21, 1988; effective June 5, 1998. Amendment filed June 8, 1990; effective July 23, 1990. Amendment filed August 26, 1998; effective November 9, 1998. Amendment filed July 29, 1999; effective October 9, 1999. Amendment filed July 10, 2001; effective September 23, 2001. Withdrawal filed September 21, 2001, 1200-14-01-.29(7). Amendment filed September 10, 2009; effective December 9, 2009.

1200-14-01-.30 RABIES.

The definition of "dog," "cat," "owner," and "vaccination" as defined in T.C.A. §68-8-102, shall be applicable in these regulations.

Authority: T.C.A. §68-8-105. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987.

1200-14-01-.31 PUBLIC RABIES VACCINATION CLINICS.

It shall be the duty of each local health department to provide vaccination of dogs and cats against rabies. In addition to the registration fee as provided for in Section 68-4, Tennessee Code Annotated, dog and cat owners may be required to pay the cost for each dog and cat vaccinated, which shall include the cost of the vaccine and the services for the vaccination. Nothing herein shall be construed as not permitting a veterinarian to charge his regular fee outside of health department sponsored vaccination clinics.

Authority: T.C.A. §68-8-105. **Administrative History:** Original rule certified June 7, 1974. Repeal and new rule filed March 31, 1977; effective May 2, 1977. Amendment filed April 20, 1987; effective June 4, 1987.

1200-14-01-.32 AUTHORIZED RABIES VACCINE SOURCES AND TYPES.

It shall be the duty of any person authorized to vaccinate dogs and cats to select and properly use a rabies vaccine of either a killed virus or modified live virus tissue culture type which is licensed by and in accordance with the standards prescribed by the United States Department of Agriculture for interstate sale and use. To insure proper vaccination and to provide proof of current vaccination status, T.C.A. 68-8 requires that all rabies vaccinations be given by or under the direct supervision of a veterinarian licensed in the State. It shall be prohibited to sell rabies vaccine for use in dogs and cats to persons other than licensed veterinarians unless the purchaser possesses a prescription for the vaccine from a veterinarian duly licensed in Tennessee. These regulations apply only to the rabies vaccinations of domestic dogs and cats. The most recent Compendium of Animal Rabies Vaccines published by the Association of State

* 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 Commissioner on 02/19/2013 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



Date: February 19, 2013

Signature: Mary Kennedy

Name of Officer: Mary Kennedy
Deputy General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: Feb. 19, 2013

Notary Public Signature: Barbara E. West

My commission expires on: 05/05/2015

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.
Attorney General and Reporter
6-10-13
Date

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Filed with the Department of State on: 6/13/13

Effective on: 11/28/13

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Health

DIVISION: Office of the Chief Medical Examiner

SUBJECT: Investigation of Deaths Resulting from Opiate, Illegal or Illicit Drug Overdose

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 38-7-102, Section 68-3-502(d) and Chapter 916 of the Public Acts of 2012

EFFECTIVE DATES: November 28, 2013 through June 30, 2014

FISCAL IMPACT: More than 2% of the agency's annual budget

STAFF RULE ABSTRACT: The proposed new rules set forth uniform protocol for conducting autopsies for deaths resulting from opiate, illegal or illicit drug overdoses, as required by Chapter 916 of the Public Acts of 2012. The rule requires any person with knowledge or reasonable suspicion that a death was caused by such an overdose to notify the county medical examiner, district attorney general, local police or sheriff. The regional forensic center shall then be notified and forward that report and the final autopsy report to the Office of the Chief Medical Examiner.

The rules require the county medical examiner or investigator to arrive as soon as practicable and document certain aspects of the autopsy in writing. The rule directs the county medical examiner to send investigative materials with the body using and documenting chain of custody procedures. The county medical examiner is also to remain with the body at any non-hospital scenes until the body is removed.

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.

These proposed rules only affect county and municipal governments and will have no impact on small businesses.

Impact on Local Governments

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

These rules are expected to have an impact on local governments in that they will result in increased local expenditures resulting from costs of increased autopsies.

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For Department of State Use Only

Sequence Number: 06-13-13
Rule ID(s): 5491
File Date: 6/17/13
Effective Date: 11/28/13

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 Health
Division:	Office of the Chief Medical Examiner
Contact Person:	Sarah Yusuf
Address:	425 5 th Avenue North
Zip:	37243
Phone:	615-532-7665
Email:	Sarah.Yusuf@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
1200-36-01	Investigation of Deaths Resulting from Opiate, Illegal or Illicit Drug Overdose
Rule Number	Rule Title
1200-36-01-.01	Purpose
1200-36-01-.02	Definitions
1200-36-01-.03	Required Reporting of Deaths Resulting from Opiate, Illegal or Illicit Drug Overdose
1200-36-01-.04	Investigation of Deaths

(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>)

Investigation of Deaths Resulting from Opiate, Illegal or Illicit Drug Overdose
New Rule

1200-36-01-.01 Purpose

A complete autopsy is preferred and usually necessary for optimal investigation of deaths resulting from opiate, illegal or illicit drug overdose. The rules in this chapter set forth protocol for uniform investigations of deaths resulting from such drugs.

1200-36-01-.02 Definitions

- (1) "Admission blood" means the blood obtained from an individual, whether alive or deceased, upon admission to the hospital.
- (2) "Autopsy" means the examination and dissection of a dead body by a physician authorized by law for the following purposes: determining the cause, mechanism, or manner of death, or the seat of disease, confirming clinical diagnoses, obtaining specimens for specialized testing, retrieving physical evidence, identifying the deceased, or educating medical professionals and students.
- (3) "Body" means the body of a deceased human or the parts or remains thereof.
- (4) "Chain of Custody" means the methodology of tracking specified materials, substances, or bodies for the purpose of maintaining control and accountability from initial collection to final disposition for all such items and providing accountability at each stage in handling, testing, and storing specimens and reporting test results.
- (5) "County Medical Examiner" means a physician licensed to practice medicine in the state of Tennessee and appointed by the county mayor.
- (6) "County Medical Investigator" means a licensed emergency medical technician, paramedic, registered nurse, physician's assistant or person registered by or a diplomat of the American Board of Medicolegal Death Investigators (AMBDI) and approved by the county medical examiner as qualified to serve under the supervision of a County Medical Examiner and assist the County Medical Examiner in death investigations.
- (7) "Forensic Pathologist" means a licensed physician who is certified in forensic pathology by the American Board of Pathology or who, prior to 2006, has completed a training program in forensic pathology that is accredited by the Accreditation Council on Graduate Medical Education (ACGME) or its international equivalent or has been officially "qualified for examination" in forensic pathology by the American Board of Pathology (ABP).
- (8) "Regional Forensic Center" means a facility accredited by the National Association of Medical Examiners (NAME) that provides forensic autopsy and death investigative services to one or more counties.
- (9) "Scene" means the location where the death occurred and/or where the body was discovered.
- (10) "Toxicology" means the identification and analysis of drugs and poisons.

Authority: T.C.A. §§ 38-7-102, 68-3-502(d), and Chapter 916 of the Public Acts of 2012.

1200-36-01-.03 Required Reporting of Deaths Resulting from Opiate, Illegal or Illicit Drug Overdose

- (1) Any physician, undertaker, law enforcement officer, or other person having knowledge or reasonable suspicion of the death of any person resulting from opiate, illegal or illicit drugs shall immediately notify the county medical examiner or the district attorney general, the local police or the county

sheriff, who in turn shall notify the county medical examiner. The notification shall be directed to the county medical examiner in the county in which the death occurred.

- (2) The county medical examiner or county medical investigator shall report the death to the regional forensic center.
- (3) The regional forensic center shall:
 - (a) Forward reports of such deaths to the Office of the Chief Medical Examiner; and
 - (b) Send the final autopsy report of such deaths to the Office of the Chief Medical Examiner.

Authority: T.C.A. §§ 38-7-102, 68-3-502(d) and Chapter 916 of the Public Acts of 2012.

1200-36-01-.04 Investigation of Deaths

- (1) The county medical investigator or the county medical examiner shall arrive as soon as practicable upon receiving a report pursuant to 1200-36-01-.03(1).
- (2) After arrival at the scene, the county medical investigator or the county medical examiner shall document in writing:
 - (a) Any usage of medications, illicit drugs and drug paraphernalia by the decedent;
 - (b) Any acute attempts of resuscitation performed on the decedent;
 - (c) Interviews with witnesses at the scene;
 - (d) Medical and mental health history of decedent; and
 - (e) An inventory of any medications found at the scene and document the name of the person to whom the medication was prescribed, the prescription number, pharmacy, the name of the prescribing medical practitioner, dosage, date filled, amount of medication issued, amount of medication remaining, and any instructions for the administration of the medication.
- (3) Prior to ordering an autopsy, county medical examiners and/or investigators shall consult with the regional forensic center receiving the body. Interpretation of postmortem toxicology testing requires correlation with history, scene and autopsy findings; thus whenever possible, a forensic autopsy shall be ordered.
- (4) If an autopsy is ordered, the county medical examiner shall send the following items with the body using chain of custody pursuant to the policy of the regional forensic center that will receive the body:
 - (a) All items listed in paragraph (2);
 - (b) Scene photos;
 - (c) Report of investigation;
 - (d) Order for autopsy;
 - (e) All admission blood and urine samples taken from the decedent and held at the hospital laboratory; and
 - (f) If the decedent was transferred to a hospital, a copy of the decedent's hospital medical records.
- (5) The county medical investigator will document the chain of custody for all items sent with the body.

- (6) The county medical examiner or investigator shall remain with the body at any non-hospital scenes until transportation arrives and removes the body.
- (7) The death certificate will be signed by the forensic pathologist who performs the forensic examination.

Authority: T.C.A. §§ 38-7-102, 68-3-502(d) and Chapter 916 of the Public Acts of 2012.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 12-18-12 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 12-18-12 Acting

Signature: David Reagan MD for John Dreepfner

Name of Officer: David Reagan

Title of Officer: Chief Medical Officer Commissioner



Subscribed and sworn to before me on: 12/18/12

Notary Public Signature: Kristann A. Floyd

My commission expires on: 3/22/2016

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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

6-13-13

Date

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Filed with the Department of State on: 6/17/13

Effective on: 11/28/13

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Environment and Conservation

DIVISION: Water Resources

SUBJECT: Subsurface Sewage Disposal Systems

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 68-221-401 et seq. and 4-5-201 et seq.

EFFECTIVE DATES: September 18, 2013 through June 30, 2014

FISCAL IMPACT: Minimal.

STAFF RULE ABSTRACT: The amendment to the rule moves the regulations pertaining to subsurface sewage disposal systems from Chapter 1200 to Chapter 0400 and corrects typographical and numbering errors.

Public Hearing Comments

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

There were no comments received during the comment period.

Regulatory Flexibility Addendum

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

This rulemaking is intended to move the rules from Chapter 1200-01-06 to Chapter 0400-48-01, to repeal Chapter 1200-05-05, which is no longer needed, and to edit the document to correct typos and incorrect references.

- (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 rule affects homebuilders, property developers, realtors, septic system installers and pumpers, and anyone associated with the construction and permitting of septic systems. There are neither costs nor benefits for small businesses associated with this rulemaking.

- (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 additional costs associated with this rulemaking.

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

There is no impact to small businesses and consumers resulting from 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.

There is no impact to small businesses resulting from this rulemaking.

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

There is no meaningful comparison with any federal or state counterparts for this rulemaking.

- (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.

To accomplish the goal of this rulemaking an exemption of small businesses is not possible.

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 does not anticipate that this rulemaking will have an impact on local governments.

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Sequence Number: 06-19-13
Rule ID(s): 5496-5498
File Date: 6/20/13
Effective Date: 9/18/13

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 and Conservation
Division:	Water Resources
Contact Person:	Bob O'Dette
Address:	6 th Floor, L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 253-5319
Email:	Robert.Odette@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
0400-48-01	Regulations to Govern Subsurface Sewage Disposal Systems
Rule Number	Rule Title
0400-48-01-.01	Subsurface Sewage Disposal Systems – General
0400-48-01-.02	Definitions
0400-48-01-.03	Subdivisions
0400-48-01-.04	Additional Site Requirements and Limitations for Subdivision Approval and Individual Lots and Issuance of Construction Permit
0400-48-01-.05	Percolation Test Procedures
0400-48-01-.06	Construction Permit
0400-48-01-.07	Design of the Conventional Disposal Field
0400-48-01-.08	Septic Tank Capacity
0400-48-01-.09	Design of Septic Tanks
0400-48-01-.10	Effluent Treatment Devices / Systems
0400-48-01-.11	Location of Septic Tanks, Dosing Chambers and Absorption Fields
0400-48-01-.12	Design of Dosing Systems
0400-48-01-.13	Maintenance of Subsurface Sewage Disposal Systems
0400-48-01-.14	Grease Traps
0400-48-01-.15	Alternative Methods of Subsurface Sewage Disposal
0400-48-01-.16	Experimental Methods of Treatment and Disposal Other Than Those Provided in These Regulations
0400-48-01-.17	Privies and Composting Toilets
0400-48-01-.18	Approved Soil Consultants
0400-48-01-.19	Installer of Subsurface Sewage Disposal Systems
0400-48-01-.20	Septic Tank Pumping Contractor

0400-48-01-.21	Fees for Services
0400-48-01-.22	Domestic Septage Disposal
0400-48-01-.23	Maintenance Provider for Advanced Treatment Systems and Subsurface Drip Disposal Systems
0400-48-01-.24	Severability

Chapter Number	Chapter Title
1200-01-06	Regulations to Govern Subsurface Sewage Disposal Systems
Rule Number	Rule Title
1200-01-06-.01	Subsurface Sewage Disposal Systems – General
1200-01-06-.02	Definitions
1200-01-06-.03	Subdivisions
1200-01-06-.04	Additional Site Requirements and Limitations for Subdivision Approval and Individual Lots and Issuance of Construction Permit
1200-01-06-.05	Percolation Test Procedures
1200-01-06-.06	Construction Permit
1200-01-06-.07	Design of the Conventional Disposal Field
1200-01-06-.08	Septic Tank Capacity
1200-01-06-.09	Design of Septic Tanks
1200-01-06-.10	Effluent Treatment Devices / Systems
1200-01-06-.11	Location of Septic Tanks, Dosing Chambers and Absorption Fields
1200-01-06-.12	Design of Dosing Systems
1200-01-06-.13	Maintenance of Subsurface Sewage Disposal Systems
1200-01-06-.14	Grease Traps
1200-01-06-.15	Alternative Methods of Subsurface Sewage Disposal
1200-01-06-.16	Experimental Methods of Treatment and Disposal Other Than Those Provided in These Regulations
1200-01-06-.17	Privies and Composting Toilets
1200-01-06-.18	Approved Soil Consultants
1200-01-06-.19	Installer of Subsurface Sewage Disposal Systems
1200-01-06-.20	Septic Tank Pumping Contractor
1200-01-06-.21	Fees for Services
1200-01-06-.22	Domestic Septage Disposal
1200-01-06-.23	Maintenance Provider for Advanced Treatment Systems and Subsurface Drip Disposal Systems
1200-01-06-.24	Severability

Chapter Number	Chapter Title
1200-05-05	Sewage Disposal for Proposed Subdivisions
Rule Number	Rule Title
1200-05-05-.01	Regulation I: Definition
1200-05-05-.02	Regulation II: Subdivision of a Plat Plan
1200-05-05-.03	Regulation III: Soil Absorption Tests
1200-05-05-.04	Regulation IV: Review of Plat and Data
1200-05-05-.05	Regulation V: Reapplication for Subdivision Plan
1200-05-05-.06	Regulation VI: Subdivision Plan Approval

(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>)

Repeals

Chapter 1200-01-06 Regulations to Govern Subsurface Sewage Disposal Systems is repealed.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

Chapter 1200-05-05 Sewage Disposal for Proposed Subdivisions is repealed.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

New Rules

Chapter 0400-48-01 Regulations to Govern Subsurface Sewage Disposal Systems

Table of Contents

0400-48-01-.01	Subsurface Sewage Disposal Systems – General	0400-48-01-.14	Grease Traps
0400-48-01-.02	Definitions	0400-48-01-.15	Alternative Methods of Subsurface Sewage Disposal
0400-48-01-.03	Subdivisions	0400-48-01-.16	Experimental Methods of Treatment and Disposal Other Than Those Provided in These Regulations
0400-48-01-.04	Additional Site Requirements and Limitations for Subdivision Approval and Individual Lots and Issuance of Construction Permit	0400-48-01-.17	Privies and Composting Toilets
0400-48-01-.05	Percolation Test Procedures	0400-48-01-.18	Approved Soil Consultants
0400-48-01-.06	Construction Permit	0400-48-01-.19	Installer of Subsurface Sewage Disposal Systems
0400-48-01-.07	Design of the Conventional Disposal Field	0400-48-01-.20	Septic Tank Pumping Contractor
0400-48-01-.08	Septic Tank Capacity	0400-48-01-.21	Fees for Services
0400-48-01-.09	Design of Septic Tanks	0400-48-01-.22	Domestic Septage Disposal
0400-48-01-.10	Effluent Treatment Devices / Systems	0400-48-01-.23	Maintenance Provider for Advanced Treatment Systems and Subsurface Drip Disposal Systems
0400-48-01-.11	Location of Septic Tanks, Dosing Chambers and Absorption Fields	0400-48-01-.24	Severability
0400-48-01-.12	Design of Dosing Systems		
0400-48-01-.13	Maintenance of Subsurface Sewage Disposal Systems		

~~1200-01-06-.01~~ 0400-48-01-.01 Subsurface Sewage Disposal Systems - General.

(1) General

(a) Purpose, Scope and Applicability

The purpose of these regulations is to provide for the implementation of T.C.A. Title 68 Health, Safety and Environmental Protection, Chapter 221 Water and Sewerage, Part 4 Subsurface Sewage Disposal Systems.

(b) Use of Number and Gender

As used in these rules:

1. Words in the masculine gender also include the feminine and neuter genders; and
2. Words in the singular include the plural; and
3. Words in the plural include the singular.

(c) Rule Structure

These rules are organized, numbered, and referenced according to the following outline form:

- (1) paragraph
 - (a) subparagraph
 - 1. part
 - (i) subpart
 - (I) item
 - I. subitem
 - A. section
 - (A) subsection

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.02~~ 0400-48-01-.02 Definitions.

“Accessible Community Sewer” means a public sewerage system where its utilization by a given piece of property is not limited because of physical or other features as determined by the Commissioner.

“Advanced Treatment System (ATS)” means an approved treatment device in compliance with ~~1200-01-06-.10~~ Rule 0400-48-01-.10 that is separate and distinct from the disposal field and is used to improve the quality of septic tank effluent to secondary levels.

“Agency of Government,” in the context of public sewerage systems, means state, county, and municipal government agencies including their subdivisions and utility districts, but does not include entities regulated by the Tennessee Regulatory Authority.

“Air/Vacuum Release Valves” means a device that allows the air in a distribution system to escape during pressurized flow, and allows air to enter the system during depressurized flow.

“Alternative Methods of Disposal” means a subsurface sewage disposal system, the construction, installation, and operation of which varies from that of a conventional subsurface sewage disposal system.

“Blockout” means a potential access hole which is a thin section of concrete preformed in a septic tank which can be removed to allow insertion of a four (4) to six (6) inch diameter pipe.

“Boundary Outline” means a map or chart with lines delineating the boundaries of the proposed area or parcel of land.

“Buffer Zone” means the distance between subsurface sewage disposal systems or subsystems required to alleviate the impact of hydraulic overloading from the adjacent system(s).

“Commissioner” means the Commissioner of Environment and Conservation, the commissioner’s duly authorized representative, and in the event of the commissioner’s absence or a vacancy in the Office of Commissioner, the Deputy Commissioner.

“Conventional Sand Filter” means a filter with two (2) feet or more of medium sand designed to chemically and biologically process septic tank or other treatment unit effluent from a pressure distribution system operated on an intermittent basis.

“Conventional Subsurface Sewage Disposal System” means a disposal system that pre-treats sewage by use of a septic tank and applies effluent to the soil as described in Rule ~~1200-01-06-.07~~ 0400-48-01-.07.

“Department” means the Department of Environment and Conservation.

“Disposal Field” means the part of a subsurface sewage disposal system that utilizes the soil for absorption and treatment of septic tank effluent.

“Domestic Septage” means either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receive only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease removed from a grease trap at a restaurant.

“Dosing Chamber” means a watertight receptacle which houses a sewage effluent pump or siphon and stores sewage effluent from a septic tank until it is pumped or dosed to a disposal field.

“Drip Emitters” means a flow control device that is typically attached to the inside wall of drip line which allows the discharge of water at a predictable rate for a given pressure.

“Drip Line” means polyethylene tubing that has been certified for wastewater use that incorporates uniformly spaced drip emitters along its length.

“Effluent Filter” means an effluent treatment device installed on the outlet of a septic tank or dosing tank, which is designed to prevent the passage of large suspended matter.

“Filled Land” means areas to which more than two (2) feet of soil and/or debris have been added.

“Fragipan” means natural subsurface horizon with high bulk density and/or high mechanical strength relative to the solum above, seemingly cemented when dry, but when moist showing a moderate to weak brittleness.

“Graded Land” means areas from which soil has been removed and the remaining soil cannot be classified in any soil series.

“Grease” means animal fats or vegetable oils (resulting from food preparation) which are discharged to a sewage disposal system or accumulated in collection devices or traps that are associated with sewage disposal systems, conduits, sewers, plumbing fixtures and attachments. However, this definition shall exclude petroleum products, lubricants, silicones and greases of mineral or synthetic origin.

“Grease Trap” means a device designed to intercept and retain grease present in sewage or other wastewater.

“Gullied Land” means areas where gullies occupy nearly all of the surface area. Areas in which gullies occur within spatial intervals of less than one hundred (100) feet shall be classified as a soil gullied land complex. Gullies of more than one hundred (100) feet spatial intervals shall be located on the soil maps with the designated symbols.

“Gully” means a miniature valley (more than one (1) foot in depth) cut by running water and through which water generally runs during and shortly after rainfall.

“Installer of Subsurface Sewage Disposal Systems” means a person who contracts or otherwise installs, constructs, alters, or extends a subsurface sewage disposal system.

“Lot” means a part of a subdivision or a parcel of land intended for the building of a single house, building or other development where a subsurface sewage disposal system is to be used.

“Maintenance Providers” means individuals who provide routine or periodic action to ensure proper system performance for systems authorized by these rules.

“Manufacturer” means the company or its authorized representative producing a proprietary product.

“Miscellaneous Land Types” means areas on the earth's surface that are non-soil (rocks, water etc.) and soils that are difficult or impossible to classify in soil series (filled land, graded land, gullied land, paved areas etc.).

“Packaged Subsurface Drip Disposal (SDD)” means a pre-engineered SDD system or ATS/SDD system that has been approved by this Department for a definite set of site criteria.

“Percolation Rate” means the rate at which water moves into the soil as determined by a percolation test.

“Percolation Test” means a method of determining the usability of an area for subsurface sewage disposal by testing for the rate at which the undisturbed soil in a series of test holes of standard size will absorb water per unit of surface area.

“Person” means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions or officers thereof, departments, agencies, or instrumentalities, or public or private corporation or officers thereof, organized or existing under the laws of this or any other state or country.

“Permit” means a written authorization issued by the Commissioner licensing one of the following: the construction, alteration, extension, or repair of a subsurface sewage disposal system, or the removal and disposal of accumulated wastes from subsurface sewage disposal systems, and including those engaged in such businesses.

“Plans” means any documents required by the Commissioner in the process of carrying out these regulations. Plans may include, but not be limited to: applications, boundary outlines, plats, soil, and topographic maps.

“Plat” means a map or other graphic representation drawn to scale, of a piece of land subdivided into lots, showing streets, waterlines, lot lines, etc.

“Positive Drainage Plan” means a plan by which all free water, both surface and subsurface, is removed from an area (lot, subdivision, etc.) by gravity (even acquiring off-site easements where necessary).

“Pressure Compensating Drip Emitters” means drip emitters that discharge water out of an orifice at a constant rate over a range of operating pressures.

“Privy” means a structure and /or excavation for the disposal of human excreta by non-water carriage methods.

“Public Sewerage System” means the conduits, sewers, and all devices and appurtenances by means of which sewage is collected, pumped, treated, and ultimately disposed of at a wastewater treatment plant; all of which are owned and operated by a municipality, utility district, or other legally constituted agency of government. Systems permitted through ~~Tennessee Code Annotated~~ T.C.A. Title 68, Chapter 221, Part 4 are not public sewerage systems.

“Recirculating Gravel Filter (RGF)” means a type of gravel filter wastewater treatment system that utilizes an effluent recycle system where a portion of the filtered effluent is mixed with septic tank effluent in a recirculation/dilution tank and redistributed to the filter.

“Relief Line” means a closed pipe laid on an undisturbed section of ground that conveys septic tank effluent from one trench to a subsequent trench on a lower elevation.

“Restriction” means a limitation on the use of properties where subsurface sewage disposal systems are proposed.

“Restrictive Covenant” means that document which restricts the use of property by its owner and specifies the obligations and responsibility of the owner regarding the property.

“Rill” means a small shallow, (one (1) foot or less in depth), ephemeral channel that carries water only during and for a few minutes after rainfall. Rills can be obliterated with conventional farm tillage implements.

“Secondary Effluent Treatment Standards” are U.S. Environmental Protection Agency secondary effluent treatment requirements for municipal treatment facilities.

“Septage” means a combination of organic sludge, liquid and scum, which accumulates in septic tanks.

"Septic Tank" means a watertight receptacle, which receives the discharge of sewage and is designed and so constructed so as to permit settling of solids from the liquid, digestion of organic matter by detention, retention of the floating solids and discharge of the liquid portion.

"Septic Tank Effluent" means partially treated sewage, which is discharged from a septic tank.

"Septic Tank Pumping Contractor" means any person engaged in the business of removing or disposing of the sludge and liquid contents of septic tanks or holding tanks.

"Sewage" means human excreta; all water carried wastes, and household wastes from residences, buildings or commercial and industrial establishments.

"Sink" means a closed depression in an area of karst topography, that is formed either by the solution of the surficial limestone or by the collapse of underlying caves. Its form varies from basin-like to funnel shaped and its size varies from only a few feet across to several hundred feet across. The bottom of a sink most commonly consists of soil formed of materials that rolled or washed from the surrounding area and has slopes, which are generally, nearly level to undulating.

"Slope or Grade" means the rate of fall or rise of a pipeline or of the ground surface in reference to the horizontal plane.

"Soil Absorption Rate" means the rate, in minutes per inch, that clean water is absorbed by or drains through a soil during least favorable climatic conditions when soils are at or near field capacity. Estimated absorption rates are established in Appendix I for soil series and phases of soil series that have been recognized in Tennessee. For soil series and phases that have been recognized but not listed in Appendix I, the Department shall establish the absorption rate. Estimated soil absorption rates for variants of soil series and miscellaneous land types may be proposed by an approved soil consultant; however, those rates will be evaluated by the Department.

"Soil Evaluation" means the systematic examination of soils in the field and/or in laboratories, their description and classification, the mapping of kinds of soils or miscellaneous areas showing the distribution of soils in relation to the physical, cultural and special features of the earth's surface and the interpretation of the soils and site characteristics for their suitability for subsurface sewage disposal or to determine if the areas are eligible for percolation tests. The mapping is either general, high intensity or extra-high intensity.

"Soil Incorporation" means the disking or plowing of the soil at a domestic septage disposal site, within six (6) hours of land application of domestic septage, so that no domestic septage is present on the surface of the soil.

"Soil Injection" means the injection of domestic septage below the surface of the soil.

"Soil Map" means a map showing the size, shape and distribution of the various kinds of soil in relation to other physical and cultural features on the earth's surface. There are three (3) kinds of soil maps. They are general, high intensity and extra-high intensity. They are defined as follows:

- (a) General - A general soil map is a second order survey as defined in the "Soil Survey Manual," United States Department of Agriculture, October 1993. These surveys are made for intensive land use that requires detailed information. Map units shall be named at a categorical level above the soil series. Miscellaneous land types or interpretative groupings of soils such as those in which percolation tests are allowed for subsurface sewage disposal site evaluation shall be delineated. Map scale shall be one (1) inch equals one hundred (100) feet. Minimum size map unit delineations shall be twenty-five hundred (2500) square feet. The mapping legend shall be provided by the Department.
- (b) High Intensity - A first order survey as defined in the "Soil Survey Manual," United States Department of Agriculture, October 1993. These surveys are made for very intensive land use that requires very detailed soils information that requires very precise knowledge of soils and their variability such as individual building sites. Field procedures require observation of soil boundaries throughout their length. Map units are mostly soil series, phases of soil series with some complexes and miscellaneous land areas. Some map units named at categorical level above the series are allowed. Map scale shall be one (1) inch equals one hundred (100) feet. Minimum size delineation shall be six hundred twenty-five (625) square feet.

- (c) Extra-High Intensity - A soil map that is the same as a high intensity soil map except the scale may be one (1) inch equals one hundred (100) feet or one (1) inch equals fifty (50) feet. The minimum size delineation shall be one hundred (100) square feet. These maps have more cartographic detail than high intensity maps.

“Soil Map Unit” means an abstract model of a soil taxonomic unit or miscellaneous land type that has a set of distinguishing soil characteristics that set it apart from all other soil map units.

“Soil Map Unit Delineation” means an area on a soil map that represents a kind of soil or miscellaneous land type that occupies an area on the earth’s surface. There may be several map unit delineations of one soil map unit.

“Soil Series” means a group of very similar soils that have one or more soil characteristics that distinguishes that soil from all other soil series. As used in these regulations, a soil series is one that has been recognized by the Natural Resource Conservation Service in Tennessee.

“Soil Variant” means a soil that has one or more distinguishing soil characteristics and soil properties that prevent that soil from being classified in any soil series that has been recognized by the Natural Resource Conservation Service in Tennessee. A soil variant requires use and management significantly different from the soil from which the variant is named. Also, behavior different from the soil series for which the variant is named can be expected.

“Spring” means a point where water naturally issues from the ground surface.

“Storage Facility” means a receptacle, which is designed to receive and retain septage prior to disposal, when the disposal site is not accessible.

“Subdivision” means any tract or parcel of land divided into two (2) or more lots, sites or other division for the purpose of immediate or future building of houses, buildings or other development where subsurface sewage disposal systems are to be used. Subdivision does not include a division of any tract or parcel of land into two (2) or more tracts or parcels when such parts are five (5) acres or larger in size. Other development constitutes all other types of habitation or occupation of buildings including, but not limited to, mobile, modular, and prefabricated structures.

“Subsurface Drip Disposal (SDD) System” means a subsurface disposal system that utilizes pressurized drip irrigation line for the uniform application of wastewater.

“Subsurface Sewage Disposal (SSD) System” means a system, other than a public or community system, which receives sewage. Included within the scope of this definition are: septic tank absorption systems, privies, chemical toilets and other similar systems. However, a subsurface sewage disposal system does not include a sewerage system regulated under T.C.A. §§ 68-221-101 et seq. and 68-3-101 et seq.

“Swelling” means a condition caused by the intrusion of water into the individual clay particles.

“Topographic Map” means a map showing existing physical features, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

“Vicinity Map” means a map, which indicates the region near or about a place and the proximity to prominent and established landmarks.

“Water Table” means that level below which the soil or rock is saturated with water.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.03~~ 0400-48-01-.03 Subdivisions.

- (1) Approval by Other Agencies - No proposed subdivision shall be approved by the State Planning Office, a local or regional planning commission or other agency authorized to approve subdivisions until the plans for such subdivisions have been approved by the Commissioner.

- (2) Lot Size - Lots shall be large enough to construct the original subsurface sewage disposal system and to provide an area for duplication of that system. The area(s) for both original and duplicate systems shall meet the provisions of these rules and be of sufficient size to accommodate a conventional subsurface sewage disposal system with thirty-six (36) inch wide trenches except where alternative subsurface sewage disposal systems are utilized.
- (3) Evaluation and Lot Design - Either a High-Intensity or a General Soil Evaluation shall be conducted as described below:
- (a) Soils Evaluation
1. Mapping Procedures
 - (i) A high-intensity soil evaluation shall be made of the entire subdivision, the entire lot or a minimum of twenty thousand (20,000) square feet (contiguous to usable soil area, if any) per lot. Each soil delineation shall be drawn and plotted using a scale of one (1) inch to one hundred (100) feet. The soil mapping shall be done by a soil consultant approved by the Department pursuant to the requirements of ~~1200-01-06-.18~~ Rule 0400-48-01-.18. Two (2) copies of such map shall be submitted to the Commissioner.
 - (ii) A general soil evaluation map shall be made of the entire subdivision using a standard mapping legend provided by the Department and each soil delineation shall be drawn and plotted using a scale of one (1) inch to one hundred (100) feet. The soil mapping shall be done by a soil consultant approved by the Department pursuant to the requirements of Rule ~~1200-01-06-.18~~ 0400-48-01-.18. Two (2) copies of such map shall be submitted to the Commissioner. Soil delineations based on slopes, soil depth to rock and water problems shall be identified on the map. Each delineation appearing on the plat through soil evaluation shall be interpreted by the soil consultants in terms of eligibility for percolation tests.
 2. When the services of a soil consultant are provided by the Department, three (3) copies of a plat of the site drawn to a scale of one (1) inch equals one hundred (100) feet shall be submitted to the Commissioner. The site shall be either grid staked or lots staked as follows:
 - (i) A one hundred (100) feet master-grid system with surveyed control stakes numbered at not more than five hundred (500) feet intervals and the location of the same on the plat. The ratio of precision of the unadjusted survey shall be a minimum of 1:1000. The plat shall show the seal and signature of the surveyor and show a bar scale. Intermediate grid stakes with numbers at not more than one hundred (100) feet intervals shall be numbered and shown on the plat. The intermediate stakes may be set by rough chaining or other methods to a lesser degree of accuracy, however, said intermediate stakes shall be within two (2) feet of the distance shown. The Commissioner may require the removal of vegetative growth such as weeds, vines and briars to permit access to all parts of the property. In wooded areas cut/flagged lines shall be maintained until the property is evaluated.
 - (ii) Staked lots must have a numbered surveyed stake at each corner. The ratio of precision of the unadjusted survey shall be a minimum of 1:1000. The plat shall show the seal and signature of the surveyor and show a bar scale. Intermediate ground control stakes shall be numbered and set in areas where lot corners are not visible from any point on the lot. The intermediate stakes must be set no more than two hundred (200) feet apart, and said intermediate stakes may be set by rough chaining or other methods to a lesser degree of accuracy, however, said stakes shall be within two (2) feet of the distance shown on the plat. The Commissioner may require the removal of vegetative growth such as weeds,

vines, and briars to permit access to all parts of the property. In wooded areas cut/flagged lines shall be maintained until property is mapped.

3. When the service of a private soil consultant is utilized, then the requirements in subparts 2(i) or (ii) of this subparagraph shall apply.

(b) Percolation Test

1. Under authority of T.C.A. § 68-221-403(c), after a general or high intensity soil evaluation has been conducted by an approved soil consultant and the soils are found to have the following characteristics, then a percolation test may be conducted pursuant to Rule ~~1200-01-06-.05~~ 0400-48-01-.05.

- (i) There shall be a minimum depth of twenty-four (24) inches of undisturbed soil.
- (ii) Slopes of more than thirty (30) percent do not qualify for percolation tests unless provisions of ~~Rule 1200-01-06-.04~~ subparagraph (4)(d) of Rule 0400-48-01-.04 are met.
- (iii) No water problem shall exist. A water problem shall be considered to exist if any of the conditions are present as listed in the "Soils Handbook of Tennessee."

2. Where a percolation test is required to determine the percolation rate for a conventional system, the percolation holes used to determine this rate must be located at the intersection of lines in a grid pattern with maximum perpendicular distances of fifty (50) feet between the lines of the grid. Each hole shall be considered reasonably representative of a square area of two thousand five hundred (2,500) square feet which includes that hole in the approximate center of the square; or

Where a percolation test is required to determine the percolation rate for an alternative system, the percolation holes used to determine this rate must be located at the intersection of lines in a grid pattern with maximum perpendicular distances of twenty-five (25) feet between the lines of the grid. Each hole shall be considered reasonably representative of a square area of six hundred twenty-five (625) square feet, which includes that hole in the approximate center of the square.

Where percolation tests are used to determine the rate at which water moves through the soil, the minimum lot size shall be twenty thousand (20,000) square feet where a public water supply is used or a minimum of twenty-five thousand (25,000) square feet where a private water supply is used. The Department shall be notified at least three (3) days prior to the day that the percolation test will be conducted. Percolation test procedures may be monitored when deemed necessary.

- (i) Two (2) copies of the subdivision plat at a scale of one (1) inch equals one hundred (100) feet shall be submitted to the Commissioner. Such plat shall show percolation test holes identified by number and plotted to scale, subdivision boundaries and other pertinent topographic features. All lot and grid lines shall be drawn with appropriate numbers shown on the plat corresponding with survey stakes on the ground.
- (ii) Tabulated results of percolation test holes shall be reported on a form provided by the Department.
- (iii) The actual average percolation rate shall be determined by averaging only the test results from the area actually to be covered by the permit, which includes both initial and duplicate area. Areas in which percolation test results were unfavorable shall be excluded. The average percolation rate shall be calculated on a weighted basis.

(iv) Percolation test results shall not be conclusive evidence as to the suitability of an area. Such tests shall be considered and analyzed as one of the many criteria in determining site suitability.

3. All percolation test locations shall adhere to the requirements of ~~Rule 1200-01-06-.11~~ paragraph (1) of Rule 0400-48-01-.11.

(4) Construction Design

(a) Each lot shall be accurately surveyed and lot boundaries designated by survey stakes with lot numbers shown on said stakes.

(b) Three (3) copies of a subdivision plat at a scale of one (1) inch equals one hundred (100) feet shall be submitted to the Commissioner, which shall indicate:

1. Lot dimensions with all lots numbered.

2. Easements for any purpose.

3. Surface and underground drainage designed so as not to interfere with subsurface sewage disposal systems.

4. Positive drainage plan, where needed. A positive drainage outlet must be available for each lot requiring soil improvement practices before the final plat is signed. If construction of a positive outlet is necessary, all construction shall be done before final plat approval is given. Off property easements may be necessary.

5. Seal and signature of registered surveyor. (In order to survey and plat subdivisions an engineer, by law, must be a registered surveyor).

6. Precision of the unadjusted survey. A minimum ratio of precision of the unadjusted survey of 1:7,500 is required.

7. Vicinity map.

8. North arrow indicating magnetic north or otherwise and indicate the scale of the plat.

9. All final plats shall have distances on all lines and shall indicate the identity of all corners such as steel post, concrete or iron pin.

(c) The submittals required by paragraphs (3) and (4) of this rule may be combined into one (1) submittal to the Commissioner.

(d) After review of the site and information submitted, the Commissioner shall:

1. Approve in writing the subdivision as proposed, or

2. Recommend in writing the corrections needed to receive approval, or

3. Indicate in writing that the proposed subdivision or areas therein are not suitable with reasons therefore.

(e) Where revisions are made to the construction design, revised plats shall be submitted to the Commissioner.

(5) Additional Data

Whenever the data required in these rules are insufficient to determine suitability of an individual lot or subdivision, the Commissioner may require additional data.

- (6) Final Approval
- (a) Two (2) copies of the final plat shall be submitted to the Commissioner with permanent lot lines drawn and the information required by subparagraph (3)(a), subparagraph (3)(b), and paragraph (4) of this rule. Additional plats for recording purposes without soil delineation, contour lines and percolation test hole locations may be submitted for approval.
 - (b) The estimated wastewater flow or number of bedrooms for each lot shall be shown on the plat.
 - (c) Any subdivision plat may be subject to restrictions as determined by the Commissioner and such restrictions shall be recorded on the plat. This may include designation of primary and duplicate areas or soil area to be reserved for subsurface sewage disposal systems.
 - (d) The Commissioner may approve a plat by attaching an appropriate signature after all provisions of these rules are met.
 - (e) Before any changes or restrictions can be made or removed, a revised plat must be submitted to the Commissioner in order to maintain plat approval.
- (7) Individually owned lots in unapproved subdivisions shall meet the requirements of this rule with the exception that only one copy of each plat shall be submitted to the Commissioner, with the plat representing only the individual lot. Where a plat of the unapproved subdivision has been recorded, this rule shall only apply to those subdivisions recorded after June 30, 1995.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-04~~ 0400-48-01-04 Additional Site Requirements and Limitations for Subdivision Approval and Individual Lots and Issuance of Construction Permits.

- (1) Suitability of Site - Prior to the design of subsurface sewage disposal systems, the suitability of the site must be demonstrated through acceptable soil absorption rates, acceptable soil conditions, freedom from groundwater interference or slowly permeable strata below the level of the disposal field and other topographic characteristics. For lots that are not part of a subdivision as defined herein, the Commissioner may determine site suitability, acceptable soil absorption rates, acceptable soil conditions, freedom from groundwater interference or impervious strata below the level of the disposal field and other topographic characteristics. For lots that are not part of a subdivision as defined herein, where the services of a soil consultant are utilized, then the requirements established in ~~Rule 1200-01-06-03~~ subparagraph (3)(a) of Rule 0400-48-01-03 may apply as deemed necessary by the Department either on an area basis or site specific basis.
- (2) Water Table- The water table shall be at least four (4) feet below the bottom of the disposal field, except that a lesser depth may be permitted where soil conditions provide adequate protection for groundwater.
 - (a) Borings for determination of perched groundwater and the water table may be required by the Commissioner. In such cases, borings shall be made to a minimum depth of six (6) feet or as site conditions so warrant. Sufficient time shall be provided for stabilization of groundwater before water table elevations are recorded. In sandy soil this may require as little as thirty (30) minutes, while clay soil may require several hours or overnight. Borings shall be located by number on the plat. Borings shall be conducted during the wettest part of the year and at a time approved by the Commissioner.
- (3) Rock - At sites where surface rock or subsurface rock formations exist to such degree as to affect operational effectiveness of subsurface sewage disposal systems, a sufficient number of borings to a minimum depth of six (6) feet may be required by the Commissioner to determine whether subsurface sewage disposal systems can be expected to give satisfactory service. Such borings shall be located by number on the plat and the results recorded.
 - (a) Rock formations shall be at a depth greater than four (4) feet below the bottom of the disposal field trenches, provided a lesser depth may be permitted where soil conditions so warrant.

- (b) Rock may be removed in the septic tank excavation if a smooth, firm, level bedding is provided.
- (4) Other Site Considerations:
- (a) Areas consisting of fill shall be excluded from the area considered for installation of the disposal fields unless soil conditions provide for adequate filtration and will prevent outcropping of sewage effluent.
 - (b) Gullies, ravines, dry stream beds, natural drainage ways, sinkholes, wells, springs, cisterns, streams and caves shall be excluded from consideration as usable areas for subsurface sewage disposal systems.
 - (c) Sinks shall be considered unsuitable for subsurface sewage disposal unless the following requirements are met:
 - 1. Depth to rock formations must be a minimum of four (4) feet from the surface of the ground and trench depth shall not exceed thirty (30) inches.
 - 2. Slopes must be thirty (30) percent or less.
 - 3. The area must not be subject to flooding.
 - 4. All other site suitability criteria must be met.
 - (d) Maximum slope permitted for the area to be used for the disposal field shall be determined by the consideration of lateral flow of effluent to the surface of the slope. Slopes of more than thirty (30) percent shall be considered unsuitable unless soil conditions will prevent lateral movement of sewage effluent to the ground surface. Slopes exceeding fifty (50) percent shall be considered unsuitable.
 - (e) Lot Grading - The area to be used for the disposal field shall not be disturbed when grading the lot. However, where this is unavoidable, a re-evaluation shall be made after grading has been completed. After the suitability of any area to be used for subsurface sewage disposal has been evaluated and approved for construction, no change shall be made to this area unless the Commissioner is notified and a re-evaluation of the area's suitability is made prior to the initiation of construction.
 - (f) When soils evaluations indicate the soil absorption rate to be less than ten (10) minutes per inch, a conventional subsurface sewage disposal system shall not be used.
- (5) Soil Improvements
- (a) Site Requirements
 - 1. Sites where soil improvement is necessary to change soil absorption rates to the acceptable range shall be considered unsuitable for subsurface sewage disposal until the improvement is adequately noted on the recorded final plat and in addition, noted on the permit at the time of issuance.
 - 2. Sites where soil protection practices are necessary to maintain soil absorption rates within the acceptable range shall be considered unsuitable for subsurface sewage disposal until the protection practice is adequately noted on the recorded final plat and in addition, noted on the permit at the time of issuance.
 - (b) Design
 - 1. The improvement and/or protection practices shall be of such location, configuration and construction to adequately collect, remove and discharge by gravity all interfering surface and subsurface water and not to collect sewage or any effluent from a subsurface sewage disposal system.

2. The minimum trench width of the soil improvement and/or protection practice shall be twelve (12) inches.

(c) Material Specifications

1. The gravel in the improvement and/or protection practices must be of sufficient amount, size and quality to allow storage and free movement of the collected water.
2. If an impermeable barrier is necessary for proper performance of the improvement and/or protection practice, the barrier must be of sufficient strength and durability to withstand the conditions under which it must perform.
3. The collection pipe must have a minimum diameter of four (4) inches, or equivalent, and must be designed to collect groundwater. It must be constructed to withstand the conditions and weights under which it must perform.
4. The outlet pipe must be at least ten (10) feet in length and have a minimum diameter of three (3) inches, unless otherwise specified on an engineered drainage plan, and be a minimum of Schedule 40 PVC. The outlet pipe must be of sufficient length to extend into the corrugated pipe in order to allow for a suitable connection. The outlet pipe must be fixed to the corrugated pipe as to not allow for easy removal. The outlet pipe must extend to the surface and the end must be modified to not allow entry of animals, but will allow sediment to exit.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~4200-01-06-05~~ 0400-48-01-.05 Percolation Test Procedures.

- (1) Type of Test Holes - The holes shall be dug or bored, with horizontal dimensions from six (6) to twelve (12) inches and vertical sides to the depth as appropriate for the type of system to be installed and the house that is to be constructed.
- (2) Preparation of Test Holes - Carefully scratch the bottom and sides of the holes with a knife blade or sharp pointed instrument in order to remove any smeared soil surfaces, and to provide a natural soil interface into which water may percolate. Remove all loose material from the holes. Add two (2) inches of coarse sand or fine gravel to protect the bottom from scouring and sediment.
- (3) Conducting the Test - Carefully fill the holes with clear water to a minimum depth of twelve (12) inches over the gravel. No additives shall be used at any time during the percolation test procedures. In most soils, it is necessary to refill the holes by supplying a surplus reservoir of water, possibly by means of an automatic siphon, to keep water in the holes at least four (4) hours and preferably overnight. The measurement period of the test shall begin twenty-four (24) to thirty (30) hours after initial filling.
- (4) Percolation Rate Measurement - Percolation rate measurement shall be made on the day following the procedure described under item (3) of the percolation test form and calculations of area required for disposal fields shall be based on Appendix II.
- (5) If greater than six (6) inches of water remains in the test holes after the overnight presoaking period, adjust the depth to approximately six (6) inches over the gravel. From a fixed reference point, measure the drop in water level over a thirty (30) minute period. This drop is used to calculate the percolation rate.
- (6) If six (6) inches, or less, of water remains in the holes after the overnight presoaking period, add clear water to bring the depth of water in the holes to approximately six (6) inches over the gravel. From a fixed reference point measure the drop in the water level at approximately thirty (30) minute intervals for four (4) hours, refilling to approximately six (6) inches over the gravel after each reading. The drop that occurs during the final thirty (30) minute period is used to calculate the percolation rate. The drop that occurs during prior periods provides information for possible modification of the procedure to suit local circumstances.

- (7) Only percolation rates generated as the result of the complete four (4) hour measurement period will be considered valid for plat approval or permit issuance.
- (8) Tests shall be conducted by an engineer or surveyor licensed in the State of Tennessee. An approved soil consultant or a registered professional environmentalist registered in the State of Tennessee may conduct percolation tests if they are not employed by a State, Regional, District, County or Municipal Department of Environment and Conservation.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.06~~ 0400-48-01-.06 Construction Permit.

- (1) No property owner or installer of a subsurface sewage disposal system shall construct, alter, extend or repair subsurface sewage disposal systems within the State of Tennessee unless he holds a valid construction permit issued by the Commissioner.
- (2) The Commissioner shall refuse to grant a permit for the construction of a subsurface sewage disposal system where there is an accessible public sewerage system. The recipient of a permit for construction of a subsurface sewage disposal system shall be the responsible person(s) for adhering to the construction requirements of these regulations.
- (3) These rules also apply in correcting existing failures; however, the Commissioner may allow repairs if the site does not meet the soil suitability, disposal field length and reserve area requirements. Repair permits are necessary when installing tanks (septic or dosing) and/or installing absorption field line in order to correct an existing failure.
- (4) The construction permit shall have an expiration date effective three (3) years from the date of issuance. All construction permits issued prior to February 4, 1990 shall expire on June 30, 1996.
- (5) Electrical Inspector Notification
 - (a) Any person who intends to construct or locate a house or establishment, mobile or permanent, after June 30, 1994, shall furnish evidence to the official electrical inspector that:
 - 1. An application for a subsurface sewage disposal system construction permit has been made (on a form provided by the Division of ~~Ground Water Protection~~ Water Resources), or
 - 2. The house or establishment is served by a public sewerage system.
 - (b) Provided however, this shall not apply to farm buildings or other buildings which are not connected to a public sewerage system or a subsurface sewage disposal system.
 - (c) Where an existing subsurface sewage disposal system is to be utilized, a statement shall be provided by the Division of ~~Ground Water Protection~~ Water Resources (upon notification by the landowner or their agent) that will serve as evidence that the requirements of T.C.A. § 68-221-414(a) have been met.
 - (d) Where there is an established countywide building permit program, as determined by the Commissioner, or where power is being restored, the provisions of this rule shall not apply.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.07~~ 0400-48-01-.07 Design of the Conventional Disposal Field.

- (1) The size of the conventional subsurface sewage disposal system shall be determined by the following:
 - (a) The suitability of the site shall be determined by a high or extra-high intensity soil map completed by an approved soil consultant and other criteria established by these regulations. The soil absorption rates that range from ten (10) through seventy-five (75) minutes per inch are

acceptable. Soil absorption rates for soil series and phases of soil series that are established in Appendix I shall apply. The absorption rates for soil series and phases that have been recognized by the Natural Resource Conservation Service in Tennessee, but not listed in Appendix I shall be established by the Department. Rates for soil variants and miscellaneous land types may be established by an approved soil consultant, but may require approval by the Department.

- (b) Where percolation tests are conducted the size of the subsurface sewage disposal system shall be determined by the rate found in Appendix II. The minimum square footage of trench bottom installed per bedroom shall be three hundred seventy (370).
 - (c) On individual lots where the Commissioner determines site suitability, an estimated soil absorption rate up to and including seventy-five (75) minutes per inch may be established. The size of the conventional subsurface sewage disposal system shall be determined by the rate found in Appendix II.
 - (d) Soils with absorption rates greater than seventy-five (75) minutes per inch as determined by a soil evaluation shall be considered unsuitable for conventional subsurface sewage disposal. Soils with percolation rates less than one hundred six (106) minutes per inch may be used for conventional systems under authority of T.C.A. § 68-221-403(c)(1).
- (2) Where conventional subsurface sewage disposal systems are installed, sufficient additional area must be available for the expansion of the disposal field in an amount large enough to install a secondary subsurface sewage disposal field as defined by these regulations.
- (3) Design of the disposal field shall be of the recirculating (level lot) or serial distribution type or a modification of either, depending on the characteristics of the site.
- (a) Recirculating Design - A recirculating design provides equal distribution of the effluent throughout the entire system by connecting successive trenches on both ends and by maintaining the grade in the bottom of these trenches from level to no more than four (4) inches. In this manner, the entire absorption area within the sewage system is utilized concurrently.
 - (b) Serial Distribution - In serial distribution, each adjacent trench is connected to the next by a closed pipe laid on an undisturbed section of ground. The arrangement is such that all effluent is discharged to the first trench until it is filled. Excess liquid is then carried by means of a closed line (relief line) to the next trench. In this manner, each portion of the subsurface system is used in succession.
 - (c) Large Conventional Systems - Those exceeding seven hundred fifty (750) gallons of estimated daily flow volume.
 - 1. When the estimated daily flow volume exceeds seven hundred fifty (750) gallons for a single system, a properly designed dosing system shall be used for discharging septic tank effluent into the disposal field. The Commissioner shall require design plans by a licensed engineer. The Commissioner may also require:
 - (i) Prior to design approval, a licensed engineer must agree, in writing, to monitor the installation and construction of the system and upon completion, provide a final set of construction as-built plans encompassing all components of the system and certification that the installation is in accordance with the design specifications.
 - (ii) Prior to design approval, it shall be the responsibility of the Department to review the aforementioned design and notify the engineer, in writing, of approval of the plans, denial of the plans or needed modifications to the plans.
 - 2. When the design daily flow from a single source exceeds three thousand (3,000) gallons per day, siphons or pumps shall be used which shall discharge to separate disposal

fields. Each system shall not exceed a design capacity of three thousand (3,000) gallons per day.

3. Discharges from dosing systems shall be designed to maximize the distribution of the effluent throughout the system.
4. Buffer zones shall be required at a frequency and size as determined by a detailed soil/site evaluation.

(4) Construction Procedure for Disposal Field

- (a) The pipe size from the septic tank to the disposal field or to the dosing chamber shall not be less than three (3) inches in diameter (inside measurement) and shall be functionally equivalent to Schedule 40 PVC except when Rule ~~1200-01-06-15~~ 0400-48-01-.15 applies. The pipe from the septic tank to the disposal field shall be of sufficient length to rest on undisturbed earth.
- (b) Materials and equipment used in subsurface sewage disposal systems shall be those which have specifications outlined in these regulations.
- (c) The disposal field trenches shall follow the ground surface contours so that variations in trench depth will be minimized.
- (d) A minimum of six (6) feet of undisturbed earth between adjacent trench walls shall be required.
- (e) Adjacent trenches in a serial distribution system shall be connected with a relief line in such a manner that each trench is completely filled with septic tank effluent to the full depth of the media before effluent flows to a succeeding trench.
- (f) In constructing relief lines, care must be exercised to insure that an undisturbed block of earth remains between trenches. The trench for the relief pipe, where it connects with the preceding absorption trench, shall be dug no deeper than the top of the media. The relief line shall rest on undisturbed earth and backfill must be carefully tamped. This section pertains primarily to a serial distribution system. Pipe for relief lines shall have no perforations and shall have a minimum inside diameter of three (3) inches and shall be Schedule 40 PVC or functionally equivalent. All couplings and/or connections must be accomplished with materials/fittings manufactured specifically for Schedule 40 PVC or functionally equivalent to the point of connection with the pipe in the disposal field and shall provide a secure connection. The lengths of pipe used for relief lines shall not be considered part of the required absorption area.
- (g) The influent and effluent relief lines in each individual trench shall be as far from each other as practical in order to prevent short circuiting.
- (h) Invert of the overflow pipe in the first relief line shall be at least four (4) inches lower than the invert of the septic tank outlet.
- (i) Trenches shall not be excavated when the soil is wet enough to smear or compact easily.
- (j) Media for the disposal fields shall consist of crushed rock, gravel or other suitable material as approved by the Department, and shall be size number 2, 3, 4 or 24 coarse aggregate, as defined by ASTM D-448-86. The material shall be free from dust, sand, clay or excessive fines. At least ninety (90) percent of the material must pass a two and one-half (2 1/2) inch screen and not more than five (5) percent may pass a one-half (1/2) inch screen.
- (k) Media for the disposal fields shall extend from at least two (2) inches above the top of the perforated field line pipe to at least six (6) inches below the bottom of the perforated field line pipe to achieve a minimum of twelve (12) inches total, except for systems designed pursuant to T.C.A. § 68-221-403(i).
- (l) The top of the disposal field media shall be below the invert of the septic tank outlet.

- (m) The media for the disposal fields shall be covered with untreated building paper, a layer of straw at least two (2) inches thick or other material determined to be equivalent by the Commissioner.
 - (n) Soil material excavated from trenches should be used in backfilling and should be left mounded over the trenches until initial settling has taken place.
 - (o) There shall be a minimum of twelve (12) inches of ground cover over the disposal field media and the maximum shall be thirty-six (36) inches of fill, except for systems designed pursuant to T.C.A. § 68-221-403(i).
 - (p) The bottom of the trenches and the distribution lines shall have a grade from level to no greater than four (4) inches.
 - (q) All pipes (tight lines) under paved areas or under driveways shall be Schedule 40 PVC or functionally equivalent and have a minimum inside diameter of three (3) inches. The lengths of pipe used for relief lines and tight lines shall not be considered part of the required absorption area.
 - (r) The pipe used in the disposal field trenches shall have a minimum diameter of four (4) inches, be perforated with one-half (1/2) inch holes and conform to or exceed the standards of the most current version of ASTM F-405.
 - (s) The area of the disposal field shall not be used for vehicular traffic or vehicular parking. Dozers, trucks and other heavy vehicles shall not be allowed to run over the septic tank, field lines or other parts of the system.
 - (t) Systems with electrical components must obtain an electrical inspector's approval associated with the subsurface sewage disposal system electrical component(s) prior to being considered for construction inspection.
 - (u) The maximum depth of a trench shall be forty-eight (48) inches. The minimum depth shall be twenty-four (24) inches, except for systems designed pursuant to T.C.A. § 68-221-403(i).
 - (v) The area of the disposal field shall not be used for any underground utilities.
 - (w) A septic tank must not be bypassed by direct line (laundry, grease, etc.) to field line.
 - (x) Down-spouts shall not be connected to the subsurface sewage disposal system. Down-spouts or other surface water shall be diverted away from the subsurface sewage disposal system.
 - (y) Water lines shall not cross, pass through, or go under the subsurface sewage disposal field. Water lines may cross, but not be located in the same trench with, a tight line leading from a septic tank or dosing tank to a disposal field provided the water line is sleeved in a continuous twenty (20) feet section of Schedule 40 PVC pipe or equivalent (a minimum of ten (10) feet on either side of the tight line) and the water line is a minimum of one (1) foot vertically above the tight line.
- (5) No system shall be covered without the inspection and authorization of the Commissioner.
- (6) Conventional Substitute Products
- (a) A Large Diameter Gravelless Pipe (LDGP) System is a subsurface sewage disposal system that has one (1) basic design principle different from conventional subsurface sewage disposal systems, which is that an eight (8) or ten (10) inch inside diameter corrugated polyethylene perforated pipe is used for the storage and distribution of effluent in a trench in lieu of a four (4) inch diameter pipe and gravel. A filter, fabric wrap around the pipe prevents soil infiltration into the pipe; and prevents small, suspended solids from moving out of the pipe.
- LDGP systems exceeding seven hundred fifty (750) gallons of estimated daily flow volume shall meet the minimum requirements established in subparagraph (3)(c) of this rule.

1. Site and Soil Requirements

- (i) The site and soil requirements are the same as for a conventional subsurface sewage disposal system. Where the soil absorption rate exceeds sixty (60) minutes per inch, gravel backfill, leveled with the top of the LDGP, shall be required in accordance with subparagraphs (4)(j) and (m) of this rule and a trench width of twenty-four (24) inches.
- (ii) An area of suitable soil must be available equivalent in size to that necessary to install and duplicate a conventional subsurface sewage disposal system.
- (iii) The size of the LDGP system shall be determined by the following:
 - (I) The suitability of the site shall be determined by a high or extra-high intensity soil map completed by an approved soil consultant and other criteria established by these regulations. The soil absorption rates that range from ten (10) through seventy-five (75) minutes per inch are acceptable. Soil absorption rates for soil series and phases of soil series that are established in Appendix I shall apply. The absorption rates for soil series and phases that have been recognized by the Natural Resource Conservation Service in Tennessee, but not listed in Appendix I shall be established by the Department. Rates for soil variants and miscellaneous land types may be established by an approved soil consultant, but may require approval by the Department. The rate found in Table I shall determine the size of the LDGP system.
 - (II) On individual lots where the Commissioner determines site suitability, an established soil absorption rate up to and including seventy-five (75) minutes per inch may be established. The size of the LDGP system shall be determined by the rate found in Table I.
 - (III) Where percolation tests are required to determine the absorption rate, the size of the LDGP system shall be determined by the rate found in Table I (370 linear foot minimum).

Table I
Soil Absorption Rates and Corresponding Trench Length Requirements for LDGP Systems

Absorption Rate (mpi)	Trench Length (ft/gal)		Trench Length (ft/bedroom)	
	8 in Pipe	10 in Pipe	8 in Pipe	10 in Pipe
10	0.600	0.400	83	55
15	0.700	0.467	95	64
30	1.000	0.667	125	84
45	1.250	0.834	150	100
60	1.450	0.967	165	110
75	1.600	1.067	185	124
80	1.650	1.100	190	126
85	1.700	1.134	195	130
90	1.750	1.167	200	134
95	1.800	1.200	208	139
100	1.850	1.234	215	144
105	1.900	1.267	223	149

Examples:

The soil absorption rate is thirty (30) minutes per inch. A three (3) bedroom home is to be located on this site. If an eight (8) inch inside diameter pipe is used:

$$(3 \text{ Bedrooms}) \left(\frac{125 \text{ ft}}{\text{Bedroom}} \right) = 375 \text{ ft}$$

The soil absorption rate is ninety-five (95) minutes per inch. A four (4) bedroom house is to be located on this site. If a ten (10) inch inside diameter pipe is used:

$$(4 \text{ Bedrooms}) \left(\frac{139 \text{ ft}}{\text{Bedroom}} \right) = 556 \text{ ft}$$

The soil absorption rate is forty-five (45) minutes per inch. A commercial building generating five hundred (500) gallons of wastewater per day is to be located on this site. If a ten (10) inch inside diameter pipe is used:

$$(500 \text{ gallons}) \left(\frac{0.834 \text{ ft}}{\text{gallon}} \right) = 417 \text{ ft}$$

The soil absorption rate is eighty-five (85) minutes per inch. An industrial plant generating three hundred seventy-five (375) gallons of wastewater per day is to be located on this site. If an eight (8) inch inside diameter pipe is used:

$$(375 \text{ gallons}) \left(\frac{1.700 \text{ ft}}{\text{gallon}} \right) = 638 \text{ ft}$$

2. Layout of the LDGP System

- (i) The linear footage required is determined from Table ~~VI~~ I.
- (ii) The location of the septic tank and the disposal field shall be in accordance with Rule ~~1200-01-06-.11~~ 0400-48-01-.11 of these regulations.
- (iii) The lateral lines shall be placed on contour. The maximum length of a single line should not exceed one hundred (100) feet unless conditions require a longer line.
- (iv) The trench bottom of each lateral shall have a grade from level to no greater than two (2) inches per one hundred (100) feet.
- (v) A minimum of six (6) feet of undisturbed earth between adjacent trench walls shall be required.
- (vi) Trench width shall be a maximum of eighteen (18) inches when the soil absorption rate is sixty (60) minutes per inch or less. Trench width shall be a minimum of twenty-four (24) inches with gravel backfill when the soil absorption rate exceeds sixty (60) minutes per inch.
- (vii) Trench depth shall range between twenty-two (22) and forty-eight (48) inches for eight (8) inch pipe and twenty-four (24) and forty-eight (48) inches for ten (10) inch pipe.
- (viii) The large diameter pipe shall be positioned in the trench so that the top location stripe is on top. Sections of pipe shall be securely joined and the filter wrap must cover all joints and the ends of each line. All couplings and/or connections must be accomplished with material/fittings manufactured specifically for large diameter gravelless pipe. Where a supply or tight line ties into the side of a large diameter gravelless pipe, the supply line or tight line shall not penetrate the pipe more than two (2) inches.

- (ix) Soil material excavated from trenches should be used in backfilling and should be left mounded over the trenches until initial settling has taken place.
- (x) The invert of the overflow pipe in the first relief line shall be at least four (4) inches lower than the invert of the septic tank outlet. The trench for the relief line, where it connects with the preceding LDGP, shall be dug no deeper than the top of the LDGP. In a recirculating design, the top of the LDGP must be a minimum of one (1) inch below the invert of the septic tank outlet.

3. Equipment and Material Specifications

- (i) Septic Tank - Rules ~~1200-01-06-.08~~ 0400-48-01-.08 and ~~1200-01-06-.09~~ 0400-48-01-.09 shall apply.
- (ii) Pipe –
 - (I) The eight (8) and ten (10) inch inside diameter tubing shall be corrugated polyethylene, meeting the requirements of ASTM F667, Standard Specification for Large Diameter Corrugated Polyethylene Tubing.
 - (II) Perforations shall be cleanly cut and uniformly spaced along the length of the tubing as follows: two (2) rows of three-eighths (3/8) to one-half (1/2) inch diameter holes located 115° - 125° apart along the bottom half of the tubing with each row of holes 57.5° - 62.5° up from the bottom centerline. These perforations should be staggered so that there is only one (1) hole in each corrugation. Perforations must be located in the minimum diameter portions of the pipe.
 - (III) The tubing shall be marked with an easily visible top location stripe.
- (iii) Filter Wrap - All large diameter pipe shall be encased with a spun bonded nylon, or other material of similar strength and durability. If the filter wrap is installed at the point of manufacture, then the corrugated pipe and filter wrap shall be shipped in a protective covering that will prevent damage to the filter wrap. This wrap shall meet or exceed the following general qualities:

Physical Properties	Minimum Values
Weight	0.75 oz/yd ²
Thickness	4.4 mm
Grab Strength	19 lbs
Machine Direction	
Transverse Direction	11 lbs
Burst strength	26 psi
Air Permeability	500 cfm/ft ²
Water Flow Rate (3 ft head pressure)	200 gpm/ft ²

- (b) A Chamber System is a media replacement system consisting of a plastic arch-shaped open bottomed chamber. Chamber systems that exceed seven hundred fifty (750) gallons of estimated daily flow volume shall meet the minimum requirements established in subparagraph (3)(c) of this rule.

1. Site and Soil Requirements

- (i) The site and soil requirements are the same as for a conventional subsurface sewage disposal system.
- (ii) An area of suitable soil must be available equivalent in size to that necessary to install and duplicate a conventional subsurface sewage disposal system.

2. Layout of the Chamber System

- (i) The size of a chamber system shall be equivalent to the total linear footage required for a three (3) feet wide conventional subsurface sewage disposal system. However, where the soil absorption rate is from ten (10) to sixty (60) minutes per inch, the total linear footage may be reduced by thirty (30) percent. If a portion of a unit is left over after determining the total linear footage required, round up to the nearest whole unit.
- (ii) The location of the septic tank and the disposal field shall be in accordance with Rule ~~1200-01-06-.11~~ 0400-48-01-.11.
- (iii) The lateral lines shall be placed on contour. The maximum length of a single line should not exceed one hundred (100) feet unless conditions require a longer line.
- (iv) The trench bottom of each lateral shall have a grade from level to no greater than two (2) inches per lateral line.
- (v) A minimum of six (6) feet of undisturbed earth between adjacent trench walls shall be required.
- (vi) Trench width shall be no more than six (6) inches wider than the product width, with the maximum trench width being thirty-six (36) inches.
- (vii) Trench depth shall range from twenty-four (24) to forty-eight (48) inches.
- (viii) Soil material excavated from trenches should be used in backfilling and should be left mounded over the trenches until initial settling has taken place.
- (ix) The top of the chambers shall be below the invert of the septic tank outlet.
- (x) The trench for the relief pipe, where it connects with the preceding absorption trench, shall be dug no deeper than the invert of the opening in the end plate.

3. Equipment and Material Specifications

- (i) Septic Tank - Rules ~~1200-01-06-.08~~ 0400-48-01-.08 and ~~1200-01-06-.09~~ 0400-48-01-.09 shall apply.
- (ii) Chamber –
 - (I) Chambers of varying heights and widths may be approved on an individual basis by the Director of the Division of ~~Ground-Water Protection~~ Water Resources.
 - (II) Each chamber must be designed to interlock with adjacent chambers, inlet plate or end plate forming a complete disposal trench that consists of an inlet plate and a solid end plate to be located at the distal end of each terminal trench.
 - (III) The chamber sidewall must be designed to allow effluent to pass laterally into the soil.
 - (IV) Chambers shall be constructed of materials meeting the material property requirements of the International Plumbing and Mechanical Officials (IAPMO) Property Standard 63-2005.

(c) Expanded Polystyrene

Expanded polystyrene (EPS) synthetic aggregate systems are cylinders comprised of EPS aggregate contained in high strength polyethylene netting. Cylinders may vary in diameter and are produced both with and without a distribution pipe.

1. Site and Soil Requirements

- (i) The site and soil requirements are the same as for a conventional subsurface sewage disposal system.
- (ii) An area of suitable soil must be available equivalent in size to that necessary to install and duplicate a conventional subsurface sewage disposal system.

2. Layout of the EPS System

- (i) The size of an EPS system shall be equivalent to the total linear footage required for a three (3) feet wide conventional subsurface sewage disposal system. However, where the soil absorption rate is from ten (10) to sixty (60) minutes per inch, the total linear footage may be reduced by thirty (30) percent for approved EPS product configuration totaling 36 inches in width. If a portion of a unit is left over after determining the total linear footage required, round up to the nearest whole unit.
- (ii) The location of the septic tank and the disposal field shall be in accordance with Rule ~~1200-01-06-11~~ 0400-48-01-11.
- (iii) The lateral lines shall be placed on contour. The maximum length of a single line should not exceed one hundred (100) feet unless conditions require a longer line.
- (iv) The trench bottom of each lateral shall have a grade from level to no greater than two (2) inches per lateral line.
- (v) A minimum of six (6) feet of undisturbed earth between adjacent trench walls shall be required.
- (vi) Trench width shall be no more than six (6) inches wider than the product width, with the maximum trench width being thirty-six (36) inches.
- (vii) Trench depth shall range from twenty-four (24) to forty-eight (48) inches.
- (viii) Soil material excavated from trenches should be used in backfilling and should be left mounded over the trenches until initial settling has taken place.
- (ix) The top of the EPS bundles shall be below the invert of the septic tank outlet.
- (x) The trench for the relief pipe, where it connects with the preceding absorption trench, shall be dug no deeper than the top of the EPS bundles.
- (xi) All couplings and/or connections must be accomplished with material/fittings manufactured specifically for EPS products.
- (xii) The EPS bundles shall be covered with untreated building paper or other material determined to be equivalent by the Commissioner.

3. Equipment and Material Specifications

- (i) Septic Tank - Rules ~~1200-01-06-08~~ 0400-48-01-08 and ~~1200-01-06-09~~ 0400-48-01-09 shall apply.
- (ii) EPS Product –

- (I) Each EPS product configuration shall be approved independently.
- (II) Each EPS bundle responsible for assuring effluent distribution must be designed to connect to adjacent bundles.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.08~~ 0400-48-01-.08 Septic Tank Capacity.

- (1) For residences, the liquid capacity of the septic tank shall be based on the following:

Number of Bedrooms	Septic Tank Capacity
2 or less	750 gallons
3	900 gallons
4 ^a	1000 gallons

^a For each additional bedroom, add two hundred fifty (250) gallons

- (2) For facilities other than residences, the net volume or effective liquid capacity below the flowline of a septic tank for flows up to five hundred (500) gallons per day shall be at least seven hundred fifty (750) gallons. For flows between five hundred (500) and fifteen hundred (1500) gallons per day, the capacity of the tank shall be equal to at least one and one-half (1 1/2) days' liquid sewage flow. With flows greater than fifteen hundred (1500) gallons per day the minimum effective tank liquid capacity shall equal one thousand one hundred twenty-five (1125) gallons plus seventy-five (75) percent of the daily sewage flow; or $V=1125+0.75Q$ where V is the volume of the tank in gallons and Q is the daily sewage flow in gallons. Additional tank volume may be necessary where unusual waste water characteristics are expected from a facility. Expected normal sewage flows may be determined from a list as provided by the Department or actual known water usage data for any facility to be served may be used if available.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.09~~ 0400-48-01-.09 Design of Septic Tanks.

- (1) A septic tank shall be watertight, structurally sound, and not subject to excessive corrosion or decay. Septic tanks installed after January 1, 1991 shall be of two (2) compartment design. The inlet compartment of a two (2) compartment tank shall be between two-thirds (2/3) and three-fourths (3/4) of the total tank capacity.
- (2) Minimum standards of design and construction of precast reinforced concrete septic tanks:
 - (a) The liquid depth may range from thirty (30) to sixty (60) inches for septic tanks of less than three thousand (3000) gallons capacity and may not exceed seventy-eight (78) inches for septic tanks with a capacity of three thousand (3000) gallons or greater.
 - (b) All tanks shall be manufactured with a partition so that the tank contains two (2) compartments. The partition shall be located at a point not less than two-thirds (2/3) nor more than three-fourths (3/4) the length of the tank from the inlet end. The tank wall thickness must remain not less than two and one-half (2 1/2) inches thick throughout the tank except for blockouts or the groove for a slide-in partition. The groove for the slide-in partition shall leave a concrete thickness of not less than two and one-fourth (2 1/4) inches in the tank walls. The partition shall be structurally sound and not subject to excessive corrosion or decay.
 - (c) There shall be three (3) blockouts in the inlet compartment, one (1) on the tank end and one (1) on each sidewall, and a blockout in the partition and the outlet end of the tank. The blockouts for these openings shall leave a concrete thickness of not less than one (1) inch in the tank wall. The blockouts shall be made for a minimum of four (4) inch pipe or a maximum of six (6) inch pipe. In lieu of the partition wall blockout, a four (4) to six (6) inch slot extending at least half way across the width of the tank may be used. The top of the slot shall be located no closer than

twelve (12) inches to the liquid level and the bottom of the slot shall be no lower than four (4) inches below the midpoint of the liquid depth. A four (4) inch diameter, or equivalent, air passage opening in the partition shall be provided above the liquid level of the tank.

- (d) The tees or baffles shall be a minimum diameter of either three (3) inch cast iron soil pipe tee branch, three (3) inch cast iron sanitary tee branch, three (3) inch cast-in-place baffle, or three (3) inch PVC tee branch or equivalent in durability and performance as determined by the Director of the Division of ~~Ground Water Protection~~ Water Resources.
 - (e) The inlet invert shall enter the tank at least one (1) inch, preferably three (3) inches, above the liquid level of the tank.
 - (f) An inlet tee or baffle shall be provided to divert the incoming sewage downward and extend at least twelve (12) inches below the liquid level.
 - (g) The partition tees or baffles and outlet tee or baffle shall extend eighteen (18) inches or one-third (1/3) the liquid depth, whichever is the lesser, below the liquid level of the tank. A tee or baffle shall be provided on the first compartment side of the partition at the same elevation as the outlet tee or baffle unless an intercompartmental connecting slot is utilized as described in subparagraph (c) of this paragraph.
 - (h) Air space equal to at least twenty (20) percent of the liquid depth shall be provided between the top of the tank and the liquid level.
 - (i) Adequate access openings above each tee or baffle must be provided in the tank top. Access shall be provided for cleaning or rodding out of the inlet pipe, and the interconnecting tees or baffles in the partition, for inserting the suction hose for tank pumping, and for entrance of a person if internal repairs are needed after pumping. If the knockouts on the inlet compartment sides of the tank are to be used access to these tees or baffles shall also be provided for cleaning and rodding of the inlet pipe. To accomplish this, it may be necessary to extend the tee so they will be located under an access port or a cleanout must be provided on the inlet line immediately outside the septic tank. A manhole opening shall be provided to each compartment with each having a minimum opening of eighteen (18) inches by eighteen (18) inches as the opening cuts the plane of the bottom side of the top of the tank. All circular shaped manholes shall have a minimum diameter of twenty (20) inches as the opening cuts the plane of the bottom side of the top of the tank. The manhole covers shall be beveled on all sides in such manner as to accommodate a uniform load of one hundred fifty (150) pounds per square foot without damage to the cover or the top of the tank. If the top of the tank is to be multislab construction, the slabs over the inlet of the tank, partition, and outlet of the tank must not weigh in excess of one hundred fifty (150) pounds each. Multislab construction must allow for a minimum access hole size of six (6) inches by six (6) inches to each compartment. Manhole covers, opening covers, or slabs shall have a handle of steel or other corrosion resistant material equivalent in strength to a No. 3 reinforcing rod (rebar).
 - (j) The tank shall be properly vibrated and rodded prior to curing to eliminate honeycomb.
 - (k) The top, bottom, ends, and sides of the tank must have a minimum thickness of two and one-half (2 1/2) inches except for blockouts or the slide in partition groove.
 - (l) After curing, tanks manufactured in two (2) sections shall be joined and sealed at the joint by the manufacturer by using a mastic sealant and/or pliable sealant that is both waterproof and corrosion resistant.
 - (m) Tank Labeling - Precast septic tanks shall be provided with a suitable legend, cast or etched in the wall at the outlet end and within six (6) inches of the top of the tank, identifying the manufacturer by name and address or registered trademark and indicating the liquid capacity of the tank in gallons.
- (3) Plans for prefabricated tanks, other than those for precast reinforced concrete tanks, shall be approved by the Department on an individual basis as determined by the information furnished by the designer

which indicates the tank will provide equivalent effectiveness as those designed in accordance with the provisions of paragraph (2) of this rule.

- (4) Septic tanks other than approved prefabricated tanks shall be constructed consistent with the provisions of paragraph (2) of this rule except as follows:
- (a) Cast-in-place concrete septic tanks shall have a minimum wall thickness of six (6) inches.
 - (b) Cast-in-place septic tanks of one thousand (1000) gallons or less shall have a minimum top and bottom thickness of four (4) inches.
 - (c) Cast-in-place concrete septic tanks with a capacity of greater than one thousand (1000) gallons shall have a minimum top and bottom thickness of six (6) inches.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-10~~ 0400-48-01-.10 Effluent Treatment Devices / Systems.

- (1) Septic Tank and/or Dosing Tank Filters, Conventional Sand Filters, Recirculating Gravel Filters and other devices may be used to improve the quality of septic tank effluent in an approved subsurface sewage disposal system.
- (a) Sand Filters and Recirculating Gravel Filters shall be designed by a licensed engineer and shall be submitted to the Department for review.
 - (b) Treatment devices other than those listed in this section may only be used if approved by the Department as meeting accepted engineering practices.
 - (c) Maintenance requirements for devices or systems in this section shall be applied as deemed necessary by the Commissioner.
- (2) An Advanced Treatment System (ATS) is a secondary treatment device that is used to improve the quality of septic tank effluent for residential wastewater flows. Only those ATS devices that have been tested and meet the requirements of NSF (National Sanitation Foundation) Standard 40 may be considered for approval in Tennessee.
- (a) System Approval
 1. Any manufacturer intending to market an ATS model in Tennessee shall submit evidence to the Department showing that the model has been tested and meets the provisions of the NSF Standard 40. All testing of ATS models must be performed by a certifier that has been accredited by the American National Standards Institute (ANSI). All ATS models marketed in Tennessee shall be listed by NSF as meeting the provisions of Standard 40 for Class I systems.
 2. All pertinent data regarding the ATS unit including; installation guidelines, owner's manuals, maintenance requirements, authorized dealers, warranty information and unit design and configuration shall be submitted to the Department for consideration. If the Commissioner determines that the ATS model meets the requirements of this rule, he will inform the manufacturer in writing.
 3. The Department will maintain a list of approved ATS models that have submitted the required information and are compliant with the requirements in these regulations. The department may remove any ATS model if the model fails to meet the requirements of this section or if the performance of an ATS is deemed to endanger public health.
 4. To maintain ATS model approval, all manufacturers shall maintain an adequate level of replacement parts and service.
 - (b) Operation and Maintenance

1. After December 31, 2009, only an individual certified by the manufacturer and approved by this Department in accordance with Rule ~~1200-01-06-19~~ 0400-48-01-19 shall install or personally supervise the installation of each ATS. Once an ATS is installed pursuant to this section, the owner of the property shall perpetually operate and maintain it properly. This requirement shall run with the land and be binding upon all future owners of the property. A maintenance provider approved by this department in accordance with Rule ~~1200-01-06-23~~ 0400-48-01-23 shall perform this operation and maintenance on the ATS.
2. Routine operation and maintenance shall be performed at three-month intervals. However, the frequency of system visits may be adjusted by the Commissioner depending upon the ATS's complexity, system performance and manufacturer's recommendations.
3. The manufacturer shall execute a four (4) year operation and maintenance contract with the owner of each ATS sold and installed. The costs of such contract shall be included in the original price of the installed ATS. The contract shall require that the manufacturer provide the following services, unless the damage or failure is caused by abuse by the homeowner or a third party outside the control of the manufacturer or technician.
 - (i) All manufacturer's required or recommended mechanical and physical inspections and adjustments;
 - (ii) The inspecting, repair and cleaning or replacement of any filters or mechanical components, as required or as may be necessary;
 - (iii) Service calls at request of owner to inspect, adjust, repair or replace components;
 - (iv) Any necessary repairs to the effluent disposal system associated with the ATS; and
 - (v) Measure the sludge and have it pumped out and properly dispose of it, when necessary.

(c) General Requirements

1. An ATS will be considered for residential wastewater applications up to fifteen hundred (1500) gallons per day. However, commercial applications may be considered by the department on an individual basis.
2. A deed restriction must be recorded with the deed of the property providing notification to all future owners that the property is served by an ATS and subject to the operation and maintenance requirements of these regulations. Proof of that recording must be provided to this office before any permit is issued for an ATS.
3. The property owner at the time of initial installation of the ATS and any subsequent owner, for the life of the system, shall have in effect a contract for operation and maintenance of the ATS with an approved maintenance provider under Rule ~~1200-01-06-23~~ 0400-48-01-23. These contracts will be reviewed by this department on an annual basis. Failure of a property owner to maintain such a contract will be considered a Class C misdemeanor and subject to civil penalties for each violation or day that the violation continues.
4. Any ATS permitted for installation shall be properly equipped to participate in NSF's web-based onsite monitoring program, or such other program deemed by the Department to be substantially similar, to assure that the system is maintained in perpetuity. The manufacturer shall provide the necessary equipment and include the cost for participation for the first four years in the price of the ATS after which time the maintenance provider

contracted to operate and maintain the system will be responsible for participation. Participation in the NSF monitoring program is required for the life of the system or until cessation of the program by NSF or the Commissioner.

5. An ATS used as part of a packaged Subsurface Drip Disposal (SDD) system must maintain approval from this department.
6. All ATS shall incorporate or be preceded by a septic or trash tank. ATS units that have a trash tank size specified in their NSF listing shall have trash tanks sized accordingly. ATS units that do not have trash tank requirements in their NSF listing shall be preceded by a septic tank sized in accordance with Rule ~~1200-01-06-.08~~ 0400-48-01-.08.
7. All ATS shall incorporate appropriate sensors and telemetric alarms that are capable of immediately notifying the maintenance provider and this Department of a critical malfunction as determined by the Commissioner.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.11~~ 0400-48-01-.11 Location of Septic Tanks, Dosing Chambers and Absorption Fields.

- (1) The location of septic tank, dosing chamber, advanced treatment system and disposal field shall be selected in accordance with the following minimum distances in feet, bearing in mind that local conditions may require increased distances of separation.

	Septic and Dosing Tanks and / or ATS	Disposal Field
Water Supply	50	50
Dwellings	5	10
Property Lines	10	10
Easements Boundaries	10	10
*Gullies, Ravines, Dry Stream Beds, Natural Drainageways, Sinkholes, Streams and Cut Banks	15	25
Water Lines	10	10
House to Tank Connections	--	10
Septic and Dosing Tanks	--	5

*These distances may increase or decrease as soil conditions so warrant as determined by the Commissioner after a special investigation by an approved soil consultant.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.12~~ 0400-48-01-.12 Design of Dosing Systems.

- (1) Dosing Chamber

The dosing chamber, access riser and riser cover shall be watertight, structurally sound and not subject to excessive corrosion or decay. The dosing chamber shall be of one (1) compartment design. They shall be of such construction and size as specified in paragraphs (2), (3), and (4) of Rule ~~1200-01-06-.09~~ 0400-48-01-.09, excluding those requirements strictly relating to two (2) compartments.

- (a) The access riser shall have a minimum diameter of twenty-four (24) inches and extend to the finished grade or above. Rectangular or square risers may be allowed provided the size of the opening provides the equivalent access as a circular riser. An access riser with a minimum diameter of sixteen (16) inches may be used provided the threaded union on the pump outlet pipe is located within two (2) feet of the top of the access riser. The access riser shall be located near the outlet end of the tank, directly above the pump or siphon, supply line, switches and other fixtures.

- (b) The dosing chamber volume shall be a minimum of two (2) times daily wastewater flow except when an alternate pump equipped with an in-tank supply line and switch assembly is on-site and ready for use. If the alternate pump, in-tank supply line and switch assembly is on-site and ready for use, the minimum dosing chamber volume shall be a total of the volume of water below the static level plus the designed dosing volume plus one-half (1/2) the daily flow.
- (2) Design of Pumps, Pipes and Controls
- (a) The gallons per minute (gpm) flow in a dosing system shall be determined by the distribution network it doses. If the distribution network is of such design that the gpm flow is not confined to specific amounts, the minimum flow shall be ten (10) gpm.
- (b) Total dynamic head (TDH) shall be determined by adding the following:
1. Elevation head is the difference in elevation between the bottom of the pump and the highest ground elevation at the disposal field. The minimum assigned elevation head shall be five (5) feet.
 2. Friction head shall be determined from Appendix III plus fittings loss.
 3. Pressure head is the amount of pressure desired at the distribution network and shall be a minimum of one (1) foot.
- (c) When pumping uphill, a check valve must be utilized if the volume of effluent which will flow back into the tank exceeds one-fourth (1/4) daily flow.
- (d) The dosing volume shall be between one-fourth (1/4) and one-half (1/2) daily flow, except in those situations where the minimum dose exceeds one-half (1/2) daily flow, then the calculated minimum dose shall be the dosing volume.
- (e) Pipe and Fittings
1. All pipe materials shall be a minimum of Schedule 40 PVC.
 2. All fittings shall be pressure fittings.
 3. All connections shall be adequately cleaned with cleaning solvent and glued with PVC solvent cement.
 4. If used, the gate or globe valve(s) and check valve shall be either bronze or PVC.
 5. The supply line shall be designed and installed to drain after each use unless system design requires a check valve.
- (f) Pump, Float Controls and Alarm System
1. The pump shall be a good quality, effluent pump and be of sufficient size to meet or exceed the gallons flow requirement and the total dynamic head requirement set forth by the system.
 2. The pump float controls must be adjustable.
 - (i) The controls must be sealed against entry of effluent or gases.
 3. The alarm system.
 - (i) The high water alarm shall be required and consist of an audible and visible alarm located in a visible place and clearly marked "wastewater system alarm".

- (ii) The alarm and alarm switches shall be placed on a separate electrical circuit from the pump power line.
- (iii) The alarm float control shall be placed so as to be activated when the pump chamber water level rises above the "pump on" float control.

(g) Pump and Controls

1. The pump must be placed so that the intake is a minimum of eight (8) inches above the bottom of the pump chamber.
2. As a means to remove the pump from the pump chamber, a material of sufficient strength and durability must be secured to the pump and access riser.
3. The pump control must be positioned so the "pump off" switch is slightly above the top of the pump and the "pump on" switch is at the desired dosing depth. The "pump off" switch for pumps specifically designed to operate with the pump motor casing exposed to air, may be located at a lower elevation provided an adequate depth of wastewater is maintained above the pump intake to insure that the pump intake will not draw in air.
4. The pump outlet pipe must be connected to the supply manifold with a threaded union or similar device.
5. When a disposal system requires a specific pressure head, a PVC or bronze, gate or globe valve shall be placed in the supply line.
6. If the effluent is pumped downhill, a five-thirty seconds (5/32) inch siphon breaker hole must be drilled in the bottom of the supply line inside the pump tank, above the liquid level.
7. All electrical installations shall be installed to meet the current wiring methods of the current edition of the "National Electric Code" (NEC) adopted by the State Fire Marshall's office.

- (3) Where a dosing system is required in accordance with ~~Rule 1200-01-06-07 part~~ (3)(c)1 ~~of Rule 0400-48-01-07~~, and where elevation permits gravity flow to be utilized, dosing siphons may be used in lieu of pumps to distribute septic tank effluent to the disposal field.

(a) Dosing Siphons

1. The single dose volume for siphons shall not exceed a total of one-fourth ($\frac{1}{4}$) of the daily flow. In the case of dual siphons, this limit shall apply to the single dose volume for each individual siphon.
2. If the absorption field is of divided design, dual siphons designed for automatic alternating operation may be installed within a single dosing chamber.
3. Dosing siphons shall be fabricated of materials that are non-corrosive, and are of adequate structural strength and durability. Siphons shall be mounted and installed to the precise elevations required to ensure proper operation.

(b) Dosing Siphon Chambers

1. The dosing siphon chamber size and volume, and selected siphon drawdown, shall be coordinated in the design so as to produce the desired single dose volume.
2. Dosing siphon chambers shall be watertight single compartment round or rectangular precast reinforced concrete structures with an access riser of twenty-four (24) inch minimum diameter.

3. Dosing siphon chambers shall be of large enough dimension to allow working room for repair and replacement as required.
- (c) Splash boxes shall be installed at the head of each absorption field in order to reduce the entry velocity of the dosing chamber effluent. The access riser and cover shall be watertight and have a minimum diameter of twenty-four (24) inches, extending to the finished grade or above, shall be installed on each splash box to allow for inspection and flow verification. Splash box volume and exit pipe dimension shall be adequate to prevent splash box overflow and/or siphon interruption.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.13~~ 0400-48-01-.13 Maintenance of Subsurface Sewage Disposal System.

- (1) It is the property owner's responsibility to maintain the system in a safe and sanitary manner.
- (2) Should the system malfunction, the Commissioner shall issue, in writing, a maximum thirty (30) day notice to the owner requiring repair, replacement or improvement of the system.
- (3) Any ATS system permitted under paragraph (2) of Rule 0400-48-01-.10 must be maintained in accordance with paragraph (2) of Rule ~~1200-01-06-.10~~ 0400-48-01-.10.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.14~~ 0400-48-01-.14 Grease Traps.

- (1) Grease Traps in Commercial Buildings - Kitchen drain lines from institutions, hotels, restaurants, schools, lunchrooms and other establishments from which flow a relatively high volume of grease may be discharged to a grease trap. Grease trap effluent shall also be treated in the septic tank before being discharged into the disposal field.
- (2) Grease traps shall be constructed to insure that both the inlet and outlet are properly submerged to trap grease and that the distance between inlet and outlet is sufficient to allow separation of the grease so that grease solids will not escape through the outlet.
- (3) Grease traps shall be vented so they will not become airborne. A cover shall be provided and located so as to be conveniently accessible for servicing and cleaning. The cover shall be designed to prevent odor and exclude insects and vermin.
- (4) Garbage Grinder Waste - Waste from garbage grinders shall not pass through any grease trap before being discharged to a septic tank.
- (5) Sizing the Grease Trap - Proper sizing of the grease trap should be based on efficiency ratings and flow capacities, which are determined by the number and kinds of sinks or fixtures discharging into the trap.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.15~~ 0400-48-01-.15 Alternative Methods of Subsurface Sewage Disposal.

- (1) Regarding alternative methods of subsurface sewage disposal, if a conflict occurs between this rule and other rules of these regulations, the items of this rule shall apply. However, the Commissioner may allow repairs if the site does not meet soil suitability and reserve area requirements. The wastewater flow for residences or other similar establishments served by alternative methods of subsurface sewage disposal shall be based upon one hundred fifty (150) gallons per bedroom per day.
- (2) Large Alternative Subsurface Methods of Sewage Disposal - Any alternative subsurface sewage disposal system that has a wastewater flow greater than seven hundred fifty (750) gallons per day shall be considered a large alternative subsurface sewage disposal system.
 - (a) A site specific design for each large alternative subsurface sewage disposal system shall be submitted to the department for review.

- (b) The design shall be stamped with the seal of a licensed engineer.
 - (c) Prior to design approval, a licensed engineer must agree, in writing, to monitor the installation and construction of the system and upon completion, provide a final set of as built plans encompassing all components of the system and certification that the installation is in accordance with the design specifications.
 - (d) It shall be the responsibility of the department to review the aforementioned design and notify the engineer, in writing, of approval of the plans, denial of the plans or needed modifications to the plans.
- (3) A Low Pressure Pipe (LPP) system is a subsurface sewage disposal system, which has three (3) basic design principles different from conventional subsurface sewage disposal systems. They are: (1) uniform distribution of effluent, (2) dosing and resting cycles, and (3) shallow placement of trenches. When lots that are less than twenty thousand (20,000) square feet are proposed, the department shall determine the necessity, location and design of buffer zones. LPP systems shall not be used to dispose of wastewater wherein the average concentration of grease exceeds one hundred fifty (150) milligrams per liter (mg/L) because of the clogging potential of the distribution network.

LPP systems designed to accommodate wastewater flows in excess of seven hundred fifty (750) gallons per day must be designed by a licensed engineer. The design shall be reviewed by the department applying the requirements of paragraph (2) of this rule.

(a) Site and Soil Requirements

1. Prior to the design of the LPP system, the suitability of the site must be demonstrated through acceptable soil absorption rates, acceptable soil conditions and other topographic characteristics. The acceptable soil absorption rate range shall be from ten (10) minutes per inch through seventy-five (75) minutes per inch as determined by an extra-high intensity soil map prepared by an approved soil consultant. If the soil absorption rate is determined to be greater than seventy-five (75) minutes per inch based upon the extra-high intensity soil map, then percolation tests may be conducted. However, soils with absorption rates in excess of seventy-five (75) minutes per inch due to wetness that cannot be corrected by drainage shall not be eligible for percolation tests. Percolation rates from seventy-six (76) minutes per inch through one hundred twenty (120) minutes per inch are acceptable if no water problems exist.
2. A minimum soil depth of thirty (30) inches over any underlying restrictive horizon is required. However, a modified LPP system may utilize a maximum of six (6) inches of compatible fill, as determined by an approved soil consultant, to obtain the required thirty (30) inches of depth.
3. Slopes of more than thirty (30) percent shall be considered unsuitable.
4. An area of suitable soil must be available to install the initial system and maintain a suitable area of adequate size for one hundred (100) percent duplication.
5. The size of the LPP system shall be determined by the following:
 - (i) An extra-high intensity soil map, provided by a soil consultant approved by the department, shall establish the soil absorption rate.
 - (ii) If the extra-high intensity soil map determines that a percolation test is necessary to establish a rate, the percolation holes shall be located in a grid pattern with maximum perpendicular distances between holes of twenty-five (25) feet and the gridded portion shall encompass the entire area to be utilized for the system and duplicate area. Greater distances may be allowed as determined by the Commissioner. The percolation test procedure in Rule ~~1200-01-06-.05~~ 0400-48-01-.05 of these regulations shall apply.

- (iii) The daily wastewater flow divided by the loading rate (Table **† II**) shall determine the area (ft²) required for the initial system.
- (iv) Hydraulic overloading of the disposal field may occur when excessive amounts of effluent are distributed over a continuous common slope. Therefore, buffer zones are required if there is more than six (6) feet of elevation difference between the upper and lower laterals or if the distance between the upper and lower laterals exceeds fifty (50) feet. The buffer zone size and the use of soil improvement or soil protection practices are site specific and shall be determined by the Commissioner based on the recommendation of an approved soil consultant. The buffer zone shall not be included as part of the reserve area.

Table **† II**.
Maximum Loading Rate

Established Rate (mpi)	Loading Rate (gpd/ft ²)
10	0.400
20	0.400
30	0.350
40	0.300
45	0.275
50	0.250
60	0.200
75	0.150
90	0.100
120	0.050

(b) Layout of the LPP System

1. The required linear footage is determined by dividing the amount of required square footage of suitable soil area by five (5).
2. The location of the septic tank, dosing chamber and the disposal field shall be in accordance with Rule ~~1200-01-06-.11~~ 0400-48-01-.11.
3. The lateral lines shall be placed on contour and lengths shall not exceed those specified as follows:

<u>5/32 in. Orifice</u>	Maximum Lateral Length (ft)			
	Pipe Size (in)			
	1	1.25	1.5	2
Hole Spacing (ft)				
3	50	75	100	140
4	55	80	110	150
5	60	90	120	N/A
6	65	100	125	N/A
7	70	110	135	N/A
8	75	120	145	N/A

<u>3/16 in. Orifice</u>	Maximum Lateral Length (ft)			
	Pipe Size (in)			
	1	1.25	1.5	2
Hole Spacing (ft)				
3	30	55	75	115
4	35	60	85	130
5	40	65	100	145
6	45	75	110	150

7	50	80	115	N/A
8	55	85	125	N/A

7/32 in. Orifice	Maximum Lateral Length (ft)			
	Pipe Size (in)			
	1	1.25	1.5	2
Hole Spacing (ft)				
3	30	50	65	90
4	35	55	70	105
5	40	60	80	115
6	45	65	85	130
7	50	70	95	140
8	55	80	105	150

1/4 in. Orifice	Maximum Lateral Length (ft)			
	Pipe Size (in)			
	1	1.25	1.5	2
Hole Spacing (ft)				
3	30	40	60	80
4	35	45	65	90
5	35	55	70	100
6	40	60	75	110
7	40	65	80	120
8	45	70	85	130

4. The trench bottom of each lateral shall be at the same elevation throughout that lateral.
5. The distance between laterals (center to center) shall not be less than five (5) feet.
6. Trench width shall be a minimum of twelve (12) inches.
7. Trench depth shall range between eighteen (18) and twenty-two (22) inches.
8. A minimum of twelve (12) inches of soil material shall be present between the bottom of the trenches and the restrictive layer.
9. Individual lateral lines shall be a maximum of one hundred (100) feet in length, unless supported by an engineered design.

(c) Dosing and Distribution System Design

1. The dosing rate per linear foot of disposal trench shall be uniform over the entire system. This may be accomplished by varying the hole spacing, hole sizing or placement of valves in the manifold or laterals to compensate for changes in ground elevation. Table # III shall be used to calculate dosing rates.

Table # III.
Pressure Head vs. gpm Flow Per Hole

Pressure Head		Hole Diameter (in)		
ft	psi	5/32	3/16	7/32
1	0.43	0.29	0.42	0.56
2	0.87	0.41	0.59	0.80
3	1.30	0.50	0.72	0.98
4	1.73	0.58	0.83	1.13
5	2.16	0.64	0.94	1.26

2. The first and last holes in a lateral shall be thirty (30) inches from the ends of the lateral. Hole spacing shall not exceed seven and one-half (7 1/2) feet.
 3. Hole sizes shall be within the range of five thirty-seconds (5/32) inches through seven thirty-seconds (7/32) inches.
 4. Calculation of gallons per minute (gpm) flow and total dynamic head.
 - (i) The gallons per minute flow amount that the pump must provide shall be determined by adding the gallons per minute flows per hole over the system dosed by that pump.
 - (ii) The total dynamic head (TDH) shall be determined by adding the following:
 - (I) Elevation head is the difference in elevation between the bottom of the pump and the highest ground elevation at the disposal field. The minimum assigned elevation head shall be five (5) feet.
 - (II) Friction head shall be determined from Appendix III plus fittings loss.
 - (III) A pressure head average of three (3) feet shall be used for TDH calculations. The range shall be one (1) through five (5) feet.
 5. When pumping uphill, a check valve must be utilized if the volume of the supply line, manifold and the volume of the laterals that drain back into the pump tank exceeds one-fourth (1/4) daily flow.
 6. The minimum dosing volume shall be determined by adding the volume of the supply line, manifold and five (5) times the volume of the laterals. If a check valve is utilized, the minimum dosing volume shall be determined by adding the volume of the manifold and five (5) times the volume of the laterals.
 7. The dosing volume shall be between one-fourth (1/4) and one-half (1/2) daily flow, except in those situations where the minimum dose exceeds one-half (1/2) daily flow, then the calculated minimum dose shall be the dosing volume.
- (d) Equipment and Material Specifications
1. Septic Tank and Dosing Chamber
 - (i) The septic tanks shall conform to all design, construction and installation criteria set forth in Rules ~~1200-01-06-.08~~ 0400-48-01-.08 and ~~1200-01-06-.09~~ 0400-48-01-.09.
 - (ii) The dosing chamber shall conform to all design construction and installation criteria set forth in Rule ~~1200-01-06-.12~~ 0400-48-01-.12.
 2. Pipe and Fittings
 - (i) All pipe materials shall be PVC and have a minimum equivalent strength of Schedule 40.
 - (ii) All fittings shall be pressure fittings.
 - (iii) All connections shall be adequately cleaned with cleaning solvent and glued with PVC solvent cement.
 - (iv) The gate or globe valve(s) and check valve shall be either bronze or PVC.
 - (v) The lateral pipe diameter shall be a minimum of one (1) inch.

- (vi) The distal end of each lateral shall be equipped with a capped turn-up that provides above-ground access.

3. Pump, Float Controls and Alarm System

- (i) The pump shall be an effluent pump of sufficient quality and size to meet or exceed the flow requirement and the total dynamic head requirement of the system.
- (ii) The pump float controls must be adjustable and must be sealed against entry of effluent or gases.
- (iii) Alarm System
 - (I) A high water alarm shall be required and consist of an audible and visible alarm located in a visible place and clearly marked "wastewater system alarm".
 - (II) The alarm and alarm switches shall be placed on a separate electrical circuit from the pump power line.
 - (III) The alarm float control shall be placed so as to be activated when the pump chamber water level rises above the "pump on" float control.

4. Disposal Field Media

The disposal field media size shall be within the range of one-half (1/2) to one (1) inch. It must be washed and free of fines.

(e) Installation Procedures

1. Site Preparation and Imported Fill

- (i) The soil area reserved for the initial and duplicate systems must not be cut, filled, compacted or disturbed in any manner prior to or after system installation.
- (ii) No site preparation shall occur if the soil is wet. The designated person responsible for monitoring system installation shall determine when the soil is adequately dry.
- (iii) If imported fill is used during installation it must be of compatible material, which shall be determined by the soil consultant approved by the department. The area to be filled must be disked prior to adding fill. The fill material must be applied with a minimum amount of wheeled traffic and must be incorporated to ensure even mixing.

2. Supply Line and Manifold

- (i) The manifold and laterals shall be designed and installed to drain after each use.
- (ii) The supply line shall be designed and installed to drain after each use unless system design requires a check valve.
- (iii) A tee to tee connection between the manifold and laterals shall be used except in situations where the topographic, soil and other site conditions allow the manifold and laterals to be at right angles. If the manifold and laterals are at right angles then crosses or tee to tee connections may be utilized.

3. Distribution Laterals

- (i) The distribution laterals shall be constructed with a minimum disposal field media depth of nine (9) inches, with three (3) inches above the lateral pipe invert.
- (ii) The disposal field media must be covered with untreated building paper, straw or other acceptable material that will allow movement of water and restrict soil movement.

4. Pump and Controls

- (i) The pump must be placed so that the intake is a minimum of eight (8) inches above the bottom of the pump chamber.
- (ii) As a means to remove the pump from the pump chamber, a material of sufficient strength and durability must be secured to the pump and access riser.
- (iii) The pump control must be positioned so the "pump off" switch is slightly above the top of the pump and the "pump on" switch is at the desired dosing depth.
- (iv) The pump outlet pipe must be connected to the supply manifold with a threaded union or similar device.
- (v) A PVC or bronze, gate or globe valve shall be placed in the supply line to adjust the specific pressure head.
- (vi) If the effluent is pumped downhill, a five thirty-seconds (5/32) inch siphon breaker hole must be drilled in the bottom of the supply line above the water level inside the pump tank.
- (vii) All electrical installations shall be installed to meet the current wiring methods of the current edition of the "National Electric Code" (NEC) adopted by the State Fire Marshall's office.

- 5. The completed landscape must be shaped to prevent water from ponding or flowing over the system.

- (4) A Mound System is a soil absorption system that is located above the natural soil surface and constructed with suitable fill material. The system differs from the conventional subsurface sewage disposal system in three (3) ways: (1) uniform distribution of effluent, (2) dosing and resting cycles and (3) above ground construction. When lots that are less than twenty thousand (20,000) square feet are proposed, the department shall determine the necessity, location and design of buffer zones. Mound systems shall not be used to dispose of wastewater wherein the average concentration of grease exceeds one hundred fifty (150) milligrams per liter (mg/L) because of the clogging potential of the distribution network.

Mound systems designed to accommodate wastewater flows in excess of seven hundred fifty (750) gallons per day must be designed by a licensed engineer in accordance with T.C.A. § 62-2-101 et seq. The design shall be reviewed by the department applying the requirements of paragraph (2) of this rule.

(a) Site and Soil Requirements

- 1. Prior to the design of the mound system, the suitability of the site must be demonstrated through acceptable soil absorption rates, acceptable soil conditions and other topographic characteristics.
- 2. The size of the mound system shall be determined by the following:
 - (i) An extra-high intensity soil map, provided by a soil consultant approved by the department, shall establish the soil absorption rate.

- (ii) If the extra-high intensity soil map, determines that a percolation test is necessary to establish a rate, the percolation holes shall be located in a grid pattern with the maximum perpendicular distances between the holes being twenty-five (25) feet and the gridded portion shall encompass the entire area to be utilized for the system and duplicate area. Greater distances may be allowed as determined by the Commissioner. The percolation test procedure in Rule ~~1200-01-06-.05~~ 0400-48-01-.05 of these regulations shall apply.
 - (iii) The daily wastewater flow divided by the infiltrative capacity of medium sand (1.2 gal/ft²/day) shall determine the area (ft²) required for the distribution bed.
3. The requirements relating to rock, groundwater and other site conditions established in ~~Rules 1200-01-06-.04 paragraphs~~ (2), (3) and (4) of Rule 0400-48-01-.04 shall apply. A minimum soil depth of twenty-four (24) inches over any underlying restrictive horizon is required. However, a modified mound system may utilize up to four (4) inches of additional sand backfill reducing the minimum depth of soil to any underlying restrictive horizon to twenty (20) inches.
 4. The acceptable soil absorption rate range for the mound system shall be from ten (10) minutes per inch through seventy-five (75) minutes per inch as determined by an extra-high intensity soil map conducted by an approved soil consultant. If the soil absorption rate is determined to be greater than seventy-five (75) minutes per inch based upon a soils map prepared by an approved soil consultant, percolation tests may be conducted. However, soils with absorption rates in excess of seventy-five (75) minutes per inch due to wetness that cannot be corrected by drainage shall not be eligible for percolation tests. Percolation rates from seventy-six (76) minutes per inch through one hundred twenty (120) minutes per inch are acceptable if no water problems exist.
 5. An area of suitable soil must be available to install the initial system and maintain a suitable area of adequate size for one hundred (100) percent duplication.
 6. If tree stumps or boulders are present within the areas designated for the initial and duplicate systems, adequate area must be available to compensate for the area occupied by the boulders and tree stumps.
 7. The basal area available for a mound must be equal to or greater than the basal area required for a given soil absorption rate.
 - (i) On sloping sites, the basal area available is that area directly below and downslope of the distribution bed. On level sites, the basal area available is that area below and on both sides of the distribution bed. That area below the end slopes shall not be included as available basal area.
 - (ii) The basal area required is determined by dividing the daily flow by infiltrative capacity of the soil. The infiltrative capacity for a given soil absorption rate can be found below:

Absorption Rate (mpi)	Infiltrative Capacity (gal/ft ² /day)
10 – 29	1.20
30 – 60	0.74
61 – 120	0.24

8. Slopes steeper than twelve (12) percent shall not be utilized. Sites with soil absorption rates of sixty-one (61) through one hundred twenty (120) minutes per inch shall not exceed a slope of six (6) percent.
9. When cluster mounds are used, buffer zones are required at a frequency and size as determined by an extra-high intensity soil map and site evaluation.

(b) Layout of the Mound System

1. The mound shall be located so as to insure that the distribution bed is situated parallel to slope contour.
2. The location of the septic tank, dosing tank and disposal mound shall be in accordance with Rule ~~4200-01-06-11~~ 0400-48-01-11.
3. The distribution bed shall be constructed level and its thickness shall be constant. A layer of uncompacted straw six (6) inches thick, untreated building paper or acceptable synthetic fabric shall be placed between the distribution bed and the clay cap.
4. Configuration
 - (i) The end slope gradient of the mound shall not be steeper than three (3) horizontal to one (1) vertical. The distance from the gravel bed to the toe of the end slope is calculated by multiplying the average mound height by the horizontal slope figure.
 - (ii) The upslope and downslope gradient of the mound shall not be steeper than three (3) horizontal to one (1) vertical. The distance from the gravel bed to the toe of either the upslope or the downslope side is calculated by multiplying the mound height at the appropriate edge of the gravel bed by the horizontal slope figure and then by the slope correction factor found in Table III IV.

Table III IV.
Downslope and Upslope Width Corrections for Mounds on Sloping Sites

Slope Percent	Downslope Correction Factor	Upslope Correction Factor
0	1.00	1.00
2	1.06	0.94
4	1.14	0.89
6	1.22	0.86
8	1.32	0.80
10	1.44	0.77
12	1.57	0.73

- (iii) The distribution bed thickness shall be a minimum of nine (9) inches with a minimum of six (6) inches of aggregate below the distribution network.
- (iv) The bed width shall not exceed ten (10) feet.
- (v) The sand fill thickness beneath the gravel bed shall be a minimum of one (1) foot.
- (vi) The cap above the distribution bed shall consist of one (1) foot of clayey subsoil at its center tapering to one-half (1/2) foot at its edges.
- (vii) The entire finished mound shall be covered with one-half (1/2) foot of soil material suitable for plant growth.

(c) Dosing and Distribution System Design

1. The dosing rate per linear foot of lateral shall be uniform throughout the entire distribution network.

2. Hole spacing and location shall be such so as to provide uniform distribution of effluent over the entire distribution bed. If the last hole is equal to or greater than one-half (1/2) of the hole spacing distance from the distal end of the lateral, a hole shall be placed in the end cap or adjacent to it.
3. Hole sizing, spacing, lateral length and diameter shall be derived from Table ~~IV~~ V. The hole diameter shall range from five thirty-seconds (5/32) through one-fourth (1/4) inch.
4. The system must be designed and placed so that the laterals and manifold drain after each dosing.
5. Calculation of gallons per minute (gpm) flow and total dynamic head (TDH).
 - (i) The gallons per minute flow, which the pump must provide, shall be determined by adding the combined gallons per minute flows of each hole.
 - (ii) The total dynamic head (TDH) shall be determined by adding the following:
 - (I) Elevation head is the difference in elevation between the bottom of the pump and the laterals in the distribution bed. The minimum assigned elevation head shall be five (5) feet.
 - (II) Friction head shall be determined from Appendix III plus fittings loss.

Table ~~IV~~ V.
Allowable Lateral Lengths (ft) for Three (3) Pipe Diameters, Three (3) Perforation Sizes and Two (2) Perforation Spacings

Perforation		Pipe Diameter (in)		
Spacing	Diameter	1	1 1/4	1 1/2
30 in	5/32 in	42 ft	68 ft	85 ft
30 in	3/16 in	34 ft	52 ft	70 ft
30 in	7/32 in	30 ft	45 ft	57 ft
30 in	1/4 in	25 ft	38 ft	50 ft
36 in	5/32 in	45 ft	70 ft	90 ft
36 in	3/16 in	36 ft	60 ft	75 ft
36 in	7/32 in	33 ft	51 ft	63 ft
36 in	1/4 in	27 ft	42 ft	54 ft

- (III) A pressure head average of three (3) feet shall be used for TDH calculations. The range shall be one (1) through five (5) feet.
6. The minimum dosing volume shall be determined by adding the volume of the supply line, manifold and five (5) times the volume of the laterals.
 7. The dosing volume shall be between one-fourth (1/4) and one-half (1/2) daily flow, except in those situations where the minimum dose exceeds one-half (1/2) daily flow, then the calculated minimum dose shall be the dosing volume.
 8. When pumping uphill, a check valve must be utilized if the volume of the supply line, manifold and the volume of the laterals that drain back into the pump tank exceeds one-fourth (1/4) of the daily flow. If a check valve is utilized, the minimum dosing volume shall be determined by adding the volume of the manifold and five (5) times the volume of the laterals.
- (d) Equipment and Material Specifications
1. Septic Tank and Dosing Tank

- (i) The septic tank shall conform to all design, construction and installation criteria set forth in Rules ~~1200-01-06-.08~~ 0400-48-01-.08 and ~~1200-01-06-.09~~ 0400-48-01-.09.
- (ii) The dosing chamber shall conform to all design, construction and installation criteria set forth in Rule ~~1200-01-06-.12~~ 0400-48-01-.12.

2. Pipe and Fittings

- (i) All pipe materials shall be PVC and have a minimum equivalent strength of Schedule 40.
- (ii) All fittings shall be pressure fittings.
- (iii) All connections shall be adequately cleaned with cleaning solvent and glued with PVC solvent cement.
- (iv) The gate or globe valve(s) and check valve shall be either bronze or PVC.
- (v) The lateral pipe diameter shall be a minimum of one (1) inch.
- (vi) The distal end of at least one (1) lateral shall be equipped with a capped turn-up.

3. Pump, Float Controls and Alarm System

- (i) The pump shall be an effluent pump of sufficient quality and size to meet or exceed the gallons flow requirement and the total dynamic head requirement of the system.
- (ii) The pump float controls must be adjustable and must be sealed against entry of effluent or gases.
- (iii) Alarm System
 - (I) A high water alarm shall be required and consist of an audible and visible alarm located in a visible place and clearly marked "wastewater system alarm."
 - (II) The alarm and alarm switches shall be placed on a separate electrical circuit from the pump power line.
 - (III) The alarm float control shall be placed so as to be activated when the pump chamber water level rises above the "pump on" float control.

4. Disposal Field Media

The media size shall be within the range of one-half (1/2) to one (1) inch. It must be washed and free of fines.

5. Sand

- (i) The particle sizes shall be predominantly (fifty (50) percent or greater) medium sand (0.50 to 0.25 mm) with no more than twenty (20) percent fine sand (0.25 to 0.10 mm) and be free from silt and clay.
- (ii) The sand shall be composed of stable materials and not subject to chemical deterioration.

6. Clay Cap Above the Distribution Bed - The cap shall be clayey subsoil.

7. Final Cover - The final cover shall consist of non-clayey, friable, fertile soil capable of supporting plant growth.

(e) Installation Procedures

1. Site Preparation and Imported Fill

- (i) The soil area reserved for the initial and duplicate systems must not be cut, filled, compacted or disturbed in any manner prior to or after system installation.
- (ii) No site preparation shall occur if the soil is wet. The designated person responsible for monitoring system installation shall determine when the soil is adequately dry.
- (iii) All trees within the area designated for the mound shall be cut to ground level and all excess vegetation shall be removed.
- (iv) The area designated for the mound shall be plowed to a minimum depth of eight (8) inches prior to addition of the sand fill. This area shall be plowed on contour.
- (v) After any area is plowed there shall be no large equipment or wheeled traffic on or over said area. If a small tracked vehicle is used for construction there shall be a minimum of six (6) inches of sand between the track and plowed layer.

2. Supply Line and Manifold

- (i) The manifold and laterals shall be designed and installed to drain after each use.
- (ii) The supply line shall be designed and installed to drain after each use unless the system design requires a check valve.
- (iii) The supply line shall be installed so as to prevent freezing and shall not enter from the downslope side.

3. Pump and Controls

- (i) The pump must be placed so that the intake is a minimum of eight (8) inches above the bottom of the pump chamber.
- (ii) As a means to remove the pump from the pump chamber, a material of sufficient strength and durability must be secured to the pump and access riser.
- (iii) The pump control must be positioned so the "pump off" switch is slightly above the top of the pump and the "pump on" switch is at the desired dosing depth.
- (iv) The pump outlet pipe must be connected to the supply manifold with a threaded union or similar device.
- (v) Immediately after the union, a gate or globe valve shall be placed in the supply line. The valve may be either PVC or bronze and shall be used to adjust the pressure on the system to the desired head.
- (vi) If the effluent is pumped downhill, a five thirty-seconds (5/32) inch siphon breaker hole must be drilled in the bottom of supply line above the water level in the pump tank.
- (vii) All electrical installations shall be installed to meet the current wiring methods of the current edition of the "National Electric Code" (NEC) adopted by the State Fire Marshall's office.

4. The completed system must be shaped to prevent water from ponding or flowing over the system.
- (5) A Waste Stabilization Lagoon may provide satisfactory sewage treatment for residences where soil conditions are not suited for absorption systems and flows are seven hundred fifty (750) gallons per day or less. Waste stabilization lagoons require a minimum tract of five (5) acres.
- (a) Site and Soil Requirements
1. Prior to the design of the waste stabilization lagoon, the suitability of the site must be demonstrated through acceptable soil absorption rates, acceptable soil conditions and other topographic characteristics.
 2. The soil characteristics shall be determined by the following:
 - (i) An extra-high intensity soil map shall establish the soil rate. The absorption rate may be estimated by an approved soil consultant but may require approval by the department.
 - (ii) A pit profile description to a depth of six (6) feet below ground surface shall be generated for each lagoon cell (primary and duplicate). Each description shall identify: soil structure, soil color, including mottles, texture including coarse fragments, plasticity and consistency for each distinct horizon in the soil profile.
 - (iii) The depth of the seasonal high water table shall be noted if it is located within six (6) feet of the soil surface.
 3. The soil absorption rate must be a minimum of one hundred twenty (120) minutes per inch as estimated by an approved soil consultant.
 4. An area of suitable soil must be available to install the initial system and maintain a suitable area of adequate size for one hundred (100) percent duplication.
 5. The lagoon shall be located in soils where the vertical separation from the bottom of the lagoon and bedrock and rock formations, or more permeable material, are a minimum of one (1) foot.
 6. Predominant redoximorphic features shall not be located within six (6) inches of the ground surface. The lagoon shall not be located in areas subject to flooding as determined by the department. The soil profile shall not be hydric in classification.
 7. Slopes greater than eight (8) percent shall be considered unsuitable.
 8. Selection of the site shall include a clear sweep of the surrounding area by prevailing winds. Heavy timber must be removed for a distance of one hundred (100) feet from the water's edge to enhance wind action and prevent shading.
 9. Areas consisting of fill shall be excluded from the area considered for installation of the waste stabilization lagoon and disposal field.
 10. Lot Grading - The area to be used for the waste stabilization lagoon and disposal field shall not be disturbed when grading the lot. However, where this is unavoidable, a re-evaluation shall be made by an approved soil consultant after grading has been completed. After the suitability of any area to be used for a waste stabilization lagoon has been evaluated and approved for construction, no change shall be made to this area unless the Commissioner is notified and a re-evaluation of the area's suitability is made prior to the initiation of construction.

(b) Location - A minimum acreage tract of five (5) acres is required and larger areas may be necessary.

1. Minimum Separation Distances

- (i) The lagoon shall be located a minimum of two hundred (200) feet from property lines, as measured from the water's edge.
- (ii) The lagoon shall be located a minimum of two hundred (200) feet from the nearest residence, commercial or industrial establishments, any habitable building or public use area. With the owner's permission the lagoon may be within a lesser distance of his home.
- (iii) The lagoon shall not be located closer than fifty (50) feet away from any spring or well. Greater horizontal separation distances may be required depending on engineering and hydrogeological data and type of water supply.
- (iv) The lagoon shall not be closer than fifty (50) feet away from a stream, lake or impoundment.
- (v) The lagoon shall not be located closer than fifty (50) feet from gullies, ravines, dry stream beds, natural drainage ways, sinks, caves and cut banks.

(c) Design of the Waste Stabilization Lagoon

- 1. The capacity of a two (2) cell lagoon shall be equivalent to a sixty (60) day minimum retention time based upon an average daily sewage flow of one hundred fifty (150) gallons per bedroom for residences. The minimum water surface area of both cells shall be one thousand two hundred fifty (1,250) square feet.
- 2. A properly sized and constructed two (2) compartment septic tank shall precede the lagoon.
- 3. The shape of the lagoon shall be such that there are no narrow or elongated portions. Round, square or rectangular cells are considered most desirable. Rectangular cells shall have a length not exceeding three (3) times the width. No islands, peninsulas or coves shall be permitted. Embankments must be rounded at corners to minimize accumulations of floating materials.
- 4. The embankment top width shall be a minimum of two (2) feet.
- 5. The embankment slopes shall not be steeper than two (2) horizontal to one (1) vertical on the inner and outer sides.
- 6. Inner embankment slopes shall not be flatter than three (3) horizontal to one (1) vertical. Outer embankment slopes shall be sufficient to prevent the entrance of surface water into the lagoon.
- 7. Freeboard (the distance from the top of the water to the top of the embankment) shall be at least two (2) feet after settling. Additional freeboard may be provided.
- 8. Embankments shall be seeded with a locally hardy grass from the outside toe to the water line, to minimize erosion and facilitate weed control. Alfalfa or similar long-rooted crops that may interfere with the water holding capacity of the embankment shall not be used. Riprap may be necessary under unusual conditions to provide protection of embankments from erosion.
- 9. On sloping areas, a diversion ditch or soil improvement practices shall be located immediately upslope from the embankment. The ditch or soil improvement practice shall

be installed to intercept and remove all surface and subsurface water and shall be protected from erosion.

10. The gravity flow lagoon influent line shall be Schedule 40 PVC or equivalent and have a minimum diameter of three (3) inches with a minimum grade of one-fourth (1/4) inch per foot. When gravity flow is utilized, the outlet invert of the septic tank shall be a minimum of one (1) foot above the high water level in the lagoon. The water level of each cell shall be at an elevation lower than the original ground surface.
11. The influent line shall be center discharging at a point two (2) feet beneath the water level. A watertight cleanout shall be provided in the influent line near the lagoon embankment and shall extend upwards to finished grade.
12. The effluent line from each cell shall be designed to maintain the water level of that cell at a depth of four (4) feet and be located so as to minimize short-circuiting from the influent line.
13. The effluent from the second cell shall be disposed of by a subsurface sewage disposal system.
14. The subsurface sewage disposal system shall be constructed according to ~~Rule 1200-01-06-07~~ paragraph (4) of ~~these regulations~~ Rule 0400-48-01-07 and shall require a minimum of one hundred fifty (150) square feet of soil absorption trench bottom area.
15. The finished grade above the subsurface sewage disposal system shall be lower in elevation than the invert of the effluent discharge line from the last cell.

(d) Dosing of the System (applicable only when pumping is necessary)

1. If pumping to the lagoon is necessary, the total dynamic head (TDH) shall be determined by the summation of the elevation head, friction head and three (3) feet of pressure head.
2. The gallons per minute (gpm) flow amount, which the pump must provide shall be a minimum of ten (10) gpm.
3. The dosing volume shall be less than one-half (1/2) daily flow.
4. A check valve must be utilized when pumping uphill.

(e) Equipment and Material Specifications

1. Septic tank and dosing tank.
 - (i) The septic tank shall conform to all design, construction and installation criteria set forth in Rules ~~1200-01-06-08~~ 0400-48-01-08 and ~~1200-01-06-09~~ 0400-48-01-09.
 - (ii) The dosing chamber shall conform to all design, construction and installation criteria set forth in Rule ~~1200-01-06-12~~ 0400-48-01-12.
2. Pipe Materials
 - (i) All pipe materials shall be PVC and have a minimum equivalent strength of Schedule 40 PVC.
 - (ii) If pumping is necessary, all fittings shall be pressure fittings.
 - (iii) All connections shall be adequately cleaned with cleaning solvent and glued with PVC solvent cement.

(f) Construction

1. The area designated for the lagoon liquid storage area and embankments shall be stripped of vegetation. The organic material removed during excavation of the lagoon shall not be used in embankment construction.
2. The area designated for the lagoon liquid storage area and embankments shall be stripped of soils that will not form an effective seal.
3. The liquid storage area of the lagoon must be sealed to prevent excessive exfiltration.
4. Embankments shall be constructed of impervious materials and compacted sufficiently to form a stable structure.
5. The influent line shall be installed at sufficient depth to protect the line from freezing and be properly bedded to prevent structural damage to the pipe from wheeled vehicles that cross the area. Slope of the line shall be such that excessive flow velocities do not cause scouring at the discharge point, but shall be adequate to prevent deposition within the line.
6. Effluent from the last cell shall be withdrawn from six (6) inches below the water surface. This shall be accomplished by placing a tee, with the run in a vertical position, on the inlet end of the effluent pipe.
7. The lagoon area shall be enclosed with a minimum four (4) feet high woven or chain-link or other restricting fence to preclude livestock and discourage trespassing. The fence shall be so located to permit mowing of the embankment top and slopes. A gate of sufficient width to accommodate mowing equipment shall be provided.
8. Appropriate warning signs shall be provided to designate the nature of the facility and discourage trespassing.

(g) Operation and Maintenance

1. It shall be necessary to fill the lagoon with water prior to using it for waste disposal.
2. Vegetation growing along the water's edge and in the water shall be mowed or otherwise removed at least annually.
3. It shall be necessary to maintain a consistent water depth of four (4) feet at all times of the year.

(6) A Subsurface Drip Disposal (SDD) System is a subsurface sewage disposal system, which utilizes pressurized drip irrigation line for the uniform application of treated wastewater throughout the disposal field. SDD systems shall be designed and installed to utilize the upper profiles of a suitable soils area through the uniform distribution of effluent, dosing and resting cycles, and shallow installation of the disposal line. SDD systems are to be preceded by a treatment device capable of achieving secondary effluent treatment standards unless otherwise determined by this department.

SDD systems designed to accommodate wastewater flows in excess of seven hundred fifty (750) gallons per day must be designed by a licensed engineer. The design shall be reviewed by the department applying the requirements of paragraph (6) of this rule.

(a) Site and Soil Requirements

1. Prior to the design of the SDD system, the suitability of the site must be demonstrated through acceptable soil properties, soil conditions and topographical characteristics. Acceptable soil textural and structural properties are shown in Table ~~V~~ VII.

2. The design and installation of the SDD system shall be based on the most restrictive naturally occurring soil horizon or layer to a depth of twenty (20) inches or twelve (12) inches below the installation depth of the drip line, whichever is greater.
3. An area of suitable soil must be available to install the primary system and maintain a suitable area of adequate size for a one hundred (100) percent duplicate area.
4. An extra-high intensity soil map, provided by a soil consultant listed by the department, shall establish the soil properties.
 - (i) An extra-high intensity soil map for use to design a SDD system shall provide site-specific profile descriptions establishing the texture and structure (shape and grade) for each suitable soil unit mapped.
 - (ii) Profile descriptions require the excavation of soil pits in order to allow for site-specific pedon descriptions. The soil column shall be described to a depth of thirty-six (36) inches or to rock or fragipan whichever is shallower. There shall be a minimum of two (2) pits per acre with at least one pit in any suitable soil unit intended for use, unless a different frequency is specified by the Commissioner.
 - (iii) Slope classes (Table ~~IV~~ VI) for extra-high intensity soil maps used for SDD systems shall be delineated as follows:

Table IV VI.
Slope Classes
<u>Slope Classes</u>
0 - 9 %
10 - 20 %
20 - 30 %
30 - 40 %
40 - 50 %
> 50 %
 - (iv) Percolation tests shall not be allowed to establish soil properties for the design of SDD systems.

5. The size of the SDD system shall be determined by the following:

- (i) The daily wastewater flow divided by the loading rate (Table ~~V~~ VII) shall determine the area (ft²) required for the initial system.

Table ~~V~~ VII.
Hydraulic Loading Rates (gpd/ft²) - For Subsurface Drip Disposal (SDD) Systems

TEXTURE	STRUCTURE		HYDRAULIC LOADING RATE (gpd / ft ²) BOD ≤ 30 mg/L
	SHAPE	GRADE	
Coarse Sand, Loamy Coarse Sand	NA	NA	NA*
Sand	NA	NA	NA*
Loamy Sand, Fine Sand, Loamy Fine Sand, Very Fine Sand,	Single Grain	Moderate, Strong	0.50
		Massive, Weak	0.40

Loamy Very Fine Sand			
Coarse Sandy Loam, Sandy Loam	Massive	Structureless	0.30
	Platy	Weak	0.20
		Moderate, Strong	Not Used
	Blocky, Granular	Weak	0.40
Moderate, Strong		0.50	
Loam	Massive	Structureless	0.20
	Platy	Weak, Moderate, Strong	Not Used
		Weak	0.30
	Blocky, Granular	Moderate, Strong	0.40
Silt Loam		Massive	Structureless
	Platy	Weak, Moderate, Strong	Not Used
		Weak	0.20
	Blocky, Granular	Moderate, Strong	0.30
Sandy Clay Loam, Clay Loam, Silty Clay Loam		Massive	Structureless
	Platy	Weak, Moderate, Strong	Not Used
		Weak	0.20
	Blocky, Granular	Moderate, Strong	0.20
Sandy Clay, Clay, Silty Clay		Massive	Structureless
	Platy	Weak, Moderate, Strong	Not Used
		Weak	0.075
	Blocky, Granular	Moderate, Strong	0.10

* Requires a special site investigation

Table ~~V~~ VII compiled from: EPA, Netafilm, GeoFlow, AL, NC, MS, GA, TX, AR and TN

- (ii) When slopes exceed nine (9) percent, slope correction factors (Table ~~V~~ VIII) shall be used to adjust area requirements.

Table ~~V~~ VIII.
Slope Correction Factors

Slope Class	Depth to Restrictive Layer	
	≤ 23 in	≥ 24 in
10% - 20%	15%	0%
20% - 30%	35%	15%

- (iii) Slopes of more than fifty (50) percent shall be considered unsuitable.
- (iv) For sites with slopes between thirty (30) to fifty (50) percent a special investigation shall be conducted to evaluate those soils to determine: depth to rock, kind of rock and particle size class designation to a depth of six (6) feet or to hard rock, whichever is shallower.
- (v) SDD systems designed for sites with slopes greater than thirty (30) percent must be designed by a licensed engineer. The department shall review the design.

(b) Design and Layout of the SDD System

1. The required minimum linear tubing footage is determined by dividing the amount of required square footage of suitable soil area by two (2). However when slope correction factors are required, the minimum linear tubing footage is calculated on the required square footage (without the addition of the slope correction factors) divided by two (2). The approximate tubing spacing is then determined by dividing the required square footage (including the slope correction factor) by the minimum linear tubing footage. Complete coverage of the required square footage (including any slope correction factor) is required. Designers are permitted to specify a closer tubing spacing and additional tubing, as soil and site conditions may accommodate, to insure complete coverage of the disposal area.
2. The location of the septic tank, effluent treatment unit, dosing chamber, and the disposal field shall be in accordance with Rule ~~1200-01-06-.11~~ 0400-48-01-.11.
3. The drip disposal lines shall be placed on contour. The maximum length of a single line or maximum drip zone size shall be in compliance with the manufacturer's recommendations and is subject to approval by the department.
4. Drip disposal lines and drip emitters shall be spaced on twenty-four (24) inch centers unless an alternative spacing is required by the use of slope correction factors. Tubing spacing other than twenty-four (24) inch centers may be considered on a case-by-case basis through the GWP Central Office.
5. All components of an SDD system shall be designed and manufactured to resist the corrosive effects of wastewater and household chemicals, and meet applicable ASTM standards.
6. All SDD systems shall include an automatic filtration system capable of removing suspended solids to a level recommended by the drip disposal line manufacturer or to a maximum particle size of no more than 120 microns, whichever is smaller. The filtration system shall be sized to provide the specified filtration level at or above peak flow conditions.
7. All SDD systems shall be designed to automatically flush each disposal field or zone at a minimum fluid velocity of two (2) feet per second. Flushing velocity is measured at the distal end of the drip disposal line. Flushing frequency shall be at least the minimum frequency recommended by the drip disposal line manufacturer or at a minimum once every thirty (30) days.
8. The filter flush, and network forward flushing volumes are to be hydraulically acceptable to and not adversely affect the pretreatment unit design for systems that flush to the pre-treatment tank. Systems designed to continuously forward flush to the dosing tank shall incorporate a system to automatically flush the filter to the pre-treatment tank.
9. Air / vacuum release valves shall be placed at the highest point of each zone. All valves shall be installed under a protective cover allowing grade level access.
10. Non-pressure-compensating turbulent flow drip emitters shall not be used in any SDD or packaged SDD system.
11. Valves or appropriate fittings to allow for easy measurement of system pressures shall be provided on the pump output, and on each supply and return manifold of each zone.
12. SDD systems shall be timed dosed at regular intervals. Demand dosing shall not be used. Minimum dose calculations shall include at least three (3) times the volume of the tubing plus the volume of the supply and return manifolds. All SDD systems shall incorporate a flow meter to accurately determine the volume of flow to the disposal field.

The approved system shall also provide the means to calculate pump cycles, alarm events, pump run time, and automated flushing events.

13. Systems designed to continuously forward flush shall incorporate a flow meter on the supply and return in order to accurately determine the volume of flow dosed in the disposal field.
14. SDD systems shall have a dosing tank capacity that will allow float placement to provide for a minimum working volume of fifty (50) percent of the peak design flow. This volume should be calculated from the timer enable to the high water alarm floats. The dosing chamber shall also provide a reserve capacity of at least fifty (50) percent of the peak daily flow above the high water alarm. The alarm and alarm switches shall be placed on a separate electrical circuit from the pump power line.
15. SDD systems shall be designed to prevent the redistribution of effluent by gravity in the disposal area.

(c) Construction Specifications

1. All supply and return manifolds, lines and pressure pipe network elements shall be constructed using Schedule 40 PVC or equivalent.
2. Any turn in the drip disposal line greater than ninety (90) degrees shall be made using flexible sections of PVC or functional equivalent. The drip line shall be secured to the flexible PVC using fittings manufactured for that purpose.
3. All electrical installations shall be installed to meet the current wiring methods of the current edition of the "National Electric Code" (NEC) adopted by the Department of Commerce and Insurance.
4. Drip disposal line shall be installed at a depth of eight (8) to twelve (12) inches below the natural soil surface. A buffer of twelve (12) inches of undisturbed soil below the drip disposal line to rock or restrictive horizon shall be maintained throughout the disposal field.
5. Drip disposal line shall be installed with the contour of the ground and in such a manner to prevent damage to the tubing and comply with the manufacturer's recommendations.

(d) General Requirements

1. SDD systems may only be used if the effluent introduced to the SDD system has been treated to secondary effluent treatment standards.
2. Permits for SDD systems will only be considered for systems that are designed by a licensed engineer or have been previously approved as a packaged SDD system by this department.
3. This Department will maintain a list of approved SDD systems either packaged with an ATS or independently.
4. No manufacturer marketing an SDD system independently or packaged with an ATS in Tennessee shall deny the sale of replacement parts or deny technical guidance to any maintenance provider listed in accordance with Rule ~~1200-01-06-23~~ 0400-48-01-23.
5. The property owner at the time of initial installation of a SDD system and any subsequent owner, for the life of the system, shall have in effect a contract for operation and maintenance of the SDD with an approved maintenance provider under Rule ~~1200-01-06-23~~ 0400-48-01-23. These contracts will be reviewed by this department on an annual basis. This requirement can be included with the ATS contract specified in Rule ~~1200-01-06-10~~ 0400-48-01-10 of these regulations.

6. SDD systems will not be considered for the purposes of subdivision plat approval or permit issuance unless the SDD system is to be utilized as the primary system.
7. SDD systems will be considered for residential applications up to and including fifteen hundred (1500) gallons per day. However, commercial applications may be considered by the department on an individual basis.
8. Upon installation of a packaged SDD system, a representative of the company holding the packaged approval shall inspect the system to certify that the system was installed to the approved specifications and provide GWP with a detailed layout of the system components. For systems designed by a licensed engineer, the engineer must submit construction as-built drawings showing the location of all components of the system.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-16~~ 0400-48-01-16 Experimental Methods of Treatment and Disposal Other Than Those Provided in These Regulations.

- (1) Experimental methods of treatment and disposal of sewage in lieu of those provided herein shall not be utilized unless approval has been granted by the department.
- (2) Prior to issuance of an experimental sewage system permit, an amendment to the deed (reflecting the presence of such system) shall be completed, notarized and recorded at the Register of Deeds Office in the county where the system will be located. A copy of such shall be submitted to the department.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-17~~ 0400-48-01-17 Privies and Composting Toilets.

- (1) Pit privies shall be constructed to prevent a health hazard and prevent insect and rodent accessibility and shall not be located less than fifty (50) feet from a water supply or less than ten (10) feet from any habitable building or property line.
- (2) Composting toilets must be certified by the National Sanitation Foundation (NSF) to be in compliance with NSF Standard 41, and be published in their "Listing of Certified Wastewater Recycle / Reuse and Water Conservation Devices," before they may be used for disposal of human excreta by non-water carriage methods.
- (3) A pit privy or composting toilet shall not be permitted for a facility where the facility has running water available unless there is an acceptable means to dispose of wastewater.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-18~~ 0400-48-01-18 Approved Soil Consultants.

- (1) An approved soil consultant shall be one who meets all of the following requirements:
 - (a) Graduation from an accredited college or university with a bachelor's degree in soil science, agronomy and/or agriculture with an emphasis in plant and soil science or agronomy, or graduation from an accredited college or university with a minimum of thirty (30) quarter hours biological, physical and earth sciences and an additional twenty-two and one-half (22 1/2) quarter hours in soil science.
 - (b) A minimum of two (2) years full time or equivalent of soil evaluation experience in accordance with the United States Department of Agriculture system. Experience must include studies of soil physical characteristics, geology, and soil relationships, soil-landscape relationships, soils identification, landscape features, mapping techniques, interpretive ranges, sewage systems and soil improvement design variations.

- (c) Candidates must pass a written examination to demonstrate mastery in soil science. A test result of eighty (80) percent correct shall constitute a passing score.
- (d) Candidate must pass a field soil mapping test to demonstrate mastery in soil classification, soil mapping, soil interpretations and cartography skills. A score of eighty (80) percent is satisfactory. Candidate then receives interim approval as a soil consultant.
- (e) After completing the first five (5) soil maps, if no serious errors were made, the candidate then becomes a soil consultant approved to make general and high intensity soil maps.
- (f) If the candidate fails the written examination, the field test or any of the first five (5) soil maps, the testing procedure may begin again after a six (6) month period. The second time, if the candidate fails the written test, the field mapping test or any of the first five (5) high intensity soil maps, the testing procedure may begin again after a twelve (12) month waiting period. The testing procedure may be repeated only one time.
- (g) After a period of one year and the completion of a minimum of twenty-five (25) high intensity soil maps with a total of one hundred (100) acres, and approved soil consultant who has not been reprimanded or suspended may apply to become approved to make all intensity soil maps.
- (h) Soil maps shall be made to comply with criteria set forth by the most current edition of the "Soils Handbook of Tennessee" prepared by the Division of ~~Ground Water Protection~~ Water Resources.

(2) Revocation of Approval

- (a) The department may review the performance of any approved soil consultant and require the submission of any soil map or other information necessary for performance review.
- (b) The department may revoke or suspend the approval of any soil consultant for the practice of any fraud or deceit in obtaining the approval or any gross negligence, incompetence or misconduct in the practice of soil evaluation or any continued disregard of evaluation criteria as required by the "Soils Handbook of Tennessee" prepared by the Division of ~~Ground Water Protection~~ Water Resources. Any person whose approval as a soil consultant has been denied, suspended or revoked, may request a hearing before the Commissioner by making such request in writing within thirty (30) days of the date of his denial, suspension or revocation. Any hearing granted under this rule shall be conducted in accordance with T.C.A. §§ 4-5-301 et seq.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-19~~ 0400-48-01-19 Installer of Subsurface Sewage Disposal Systems.

- (1) (a) No person shall engage in the business of constructing, installing, altering or extending or repairing a subsurface sewage disposal system unless he has a valid annual permit issued by the Commissioner. This rule does not apply to the property owner or the property owner's tenant doing his own work on his own property where such property is the residence of the owner or tenant, provided that nothing in this rule shall act to remove the requirement that any person must secure a construction permit as provided by law and duly promulgated regulations.
- (b) Any person who is, on the effective date of these rules, or intends to become after the effective date of these rules, an installer, shall make application for the installer's permit in writing on a form furnished by the department.
- (2) (a) No permit under this rule shall be granted until:
 1. An application is filled out in its entirety, unless otherwise specified by the Commissioner; and
 2. The installer scores a grade of seventy (70) percent or above on a written or oral test developed by the department. This test requirement does not apply, however, to an installer who was licensed the previous year and who performed satisfactory work, as

determined by the Division of ~~Ground Water Protection~~ Water Resources, during the previous year. The test shall cover design, location and installation of conventional/alternative subsurface sewage disposal systems.

- (b) A permit to install subsurface sewage disposal systems may be denied where the applicant has had a previous permit denied, suspended or revoked due to unsatisfactory work, where such unsatisfactory work is material to the subject matter of the permit.
- (3) Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.
- (4) When a permit has been denied, suspended or revoked, a hearing may be requested before the Commissioner by making such request in writing within thirty (30) days of the date of his denial, suspension, or revocation. Any hearing granted under this rule shall be conducted in accordance with T.C.A §§ 4-5-301 et seq.
- (5) Permits shall expire on the 31st day of December following the date of issuance.
- (6) An application for a permit shall contain the following:
 - (a) Name of business;
 - (b) Business address and phone number;
 - (c) Owner's name; and
 - (d) Address and phone number of owner.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.20~~ 0400-48-01-.20 Septic Tank Pumping Contractor.

- (1) Domestic Septage Removal Permit - Persons engaged in the business of removing and disposing of domestic septage from septic tanks, holding tanks, portable toilets or other similar sewage treatment or disposal facilities covered within the provision of these rules shall obtain an annual permit from the Commissioner.

Septic tank pumping contractors are authorized under the domestic septage removal permit to pump the contents of grease traps that are a part of subsurface sewage disposal systems. This grease trap waste must be disposed of in a manner approved by the Commissioner. Grease trap waste may not be disposed of on a domestic septage disposal site, as authorized under these rules.

- (2) (a) No permit under this rule shall be granted until:
 - 1. An application is filled out in its entirety, unless otherwise specified by the Commissioner; and
 - 2. The contractor has demonstrated to the Commissioner that he is capable of conducting the operation in accordance with the rules as set forth herein; and
- (b) A domestic septage removal permit may be denied where the applicant has had a previous permit denied, suspended or revoked due to unsatisfactory work, where such unsatisfactory work is material to the subject matter of the permit.
- (3) Application for permit shall contain the following:
 - (a) Business name, owner's name, address and telephone number;
 - (b) Signature of applicant and date of application;

- (c) Written permission of the proper official when contents are to be disposed of by discharging into a public or community wastewater treatment plant;
 - (d) Written permission of the landowner and disposal site operator, if different from the landowner, for each land application site used, including a copy of the domestic septage disposal site permit(s);
 - (e) Tank capacity, in gallons, license number and state of registration for each vehicle used to transport domestic septage;
 - (f) Counties in which the contractor intends to conduct most of his business.
- (4) Monitoring Logs - A monthly log, on a form provided by the Department, of all pumpings and discharges shall be maintained. The log shall include, but not be limited to, the following:
- (a) Date domestic septage is collected;
 - (b) Address of collection;
 - (c) Indicate if collection point is residential or commercial;
 - (d) Volume in gallons collected;
 - (e) Type of waste hauled;
 - (f) The discharge location, by treatment plant name or land disposal site permit number;
 - (g) The date, time and total number of gallons of domestic septage applied to the approved disposal site (if applicable);
 - (h) Method of pathogen reduction and vector attraction reduction for each load (if applicable);
 - (i) The following statement of certification:

"I certify, under penalty of law, that all domestic septage has been disposed of at an approved wastewater treatment facility, or that the site requirements of paragraph (6) of Rule ~~1200-04-06-22~~ 0400-48-01-.22, have been met."
- (5) Vehicle Identification - All vehicles engaged in domestic septage removal shall carry on both sides of the vehicle the name and address of the firm or operator conducting the business and the domestic septage removal permit number under which the business is being conducted. All lettering shall be at least two (2) inches high in bold print on a background of contrasting colors. All vehicles used for transporting domestic septage shall have an identifying sticker, provided by the department, attached to the vehicle in a location determined by the department.
- (6) Vehicle Maintenance - Every vehicle used for domestic septage removal purposes shall be equipped with a watertight tank and shall be maintained in a clean and sanitary condition. Liquid wastes shall not be transported in an open body vehicle unless contained within suitable portable receptacles. All pumps, valves and hose lines shall be maintained so as to prevent leakage. A splash plate or other approved method of dispersal shall be used for land application.
- (7) Portable Receptacles - All portable receptacles used for transporting liquid or solid wastes shall be watertight, equipped with tight-fitting lids and cleaned daily.
- (8) Domestic Septage Removal Permit
- (a) Permits shall not be transferable or assignable and shall automatically become invalid upon a change of ownership or upon suspension or revocation.
 - (b) Permits shall expire on the 31st day of December, following the date of issuance.

- (c) When a permit has been denied, suspended or revoked, a hearing may be requested before the Commissioner by making such request in writing within thirty (30) days of the date of the denial, suspension or revocation. Any hearing granted under this section shall be conducted in accordance with T.C.A. §§ 4-5-301 et seq.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.21~~ 0400-48-01-.21 Fees for Services.

- (1) Fees for services are assessed pursuant to the following:

Specific Procedure Covered by Fee	Fee
(a) General intensity soil mapping to determine eligibility for percolation tests.	Eighty dollars (\$80) per acre, with eighty dollars (\$80) being the minimum for each separate acre or part of acre to be mapped.
(b) High intensity soil mapping (sufficient for final approval, 1" = 100' scale) of single lots, or tracts where lots have been staked, or where tracks are gridded (100' grid staking) for residential, commercial, industrial, institutional or recreational users.	Two hundred dollars (\$200) per acre, with two hundred dollars (\$200) being the minimum for each separate acre or part of acre to be mapped.
(c) Extra-high intensity soil mapping for alternative disposal system.	Two hundred fifty (\$250) dollars per acre, with two hundred fifty (\$250) dollars being the minimum for each separate acre or part of acre to be mapped.
(d) Conventional, chamber, EPS and large diameter gravelless pipe subsurface sewage disposal systems permit application processing, making inspections and other regulatory activities relative to the construction of new conventional, chamber and large diameter gravelless pipe subsurface sewage disposal systems and modification or expansion of existing systems because of additions resulting in added wastewater flow, but not for repair of malfunctioning systems. Permits shall be granted or denied within forty-five (45) days of receipt of all necessary information.	Four hundred dollars (\$400) up to one thousand (1,000) gpd design flow plus one hundred dollars (\$100) for each additional one thousand (1,000) gpd flow, or portion thereof.
(e) Alternative subsurface sewage disposal systems permit application up to one thousand (1,000) gpd. design flow processing (excluding chamber, EPS and large diameter gravelless pipe systems), making inspections and other enforcement activities relative to the construction of alternative subsurface sewage disposal systems and modification or expansion of existing systems because of additions resulting in added wastewater flow, but not for repair of malfunctioning systems. Permits shall be granted or denied within forty-five (45) days of receipt of all necessary information.	Five hundred dollars (\$500) plus one hundred fifty dollars (\$150) for each additional one thousand (1,000) gpd flow, or portion thereof.
(f) Experimental subsurface sewage disposal	Five hundred dollars (\$500).

systems permit application processing, making inspections and other enforcement activities relative to the construction of experimental subsurface sewage disposal systems and expansion of systems because of additions resulting in added wastewater flow, but not for repair of malfunctioning systems. Permits shall be granted or denied within forty-five (45) days of receipt of all necessary information.

- (g) Subdivision Evaluation - Evaluations of lots within proposed subdivisions to determine and to specify limitations on their usability for subsurface sewage disposal systems. Sixty five dollars (\$65) per evaluated lot.
- (h) Inspections of existing subsurface sewage disposal systems. Two hundred dollars (\$200) per inspection.
- (i) Installer and Pumper Permits - Enforcement activities relative to sewage system installers and septic tank pumpers. Permits shall be granted or denied within forty-five (45) days of the date of application. Two hundred dollars (\$200) per annual permit for pumpers and installers. The \$200 annual installer permit applies to installation of conventional, chamber, EPS and large diameter gravelless pipe systems. If an installer wishes to be permitted for installation of alternative systems, an additional one hundred dollars (\$100) applies for each type of alternative system.
- (j) Sewage Surveys - Activities involved in the inspections and surveying of subsurface sewage disposal systems. Actual costs.
- (k) Water Samples - Collection of water samples for bacteriological laboratory analysis, but does not include samples collected in enforcement activities.
 - 1. Mail Deliver One hundred fifteen dollars (\$115) per sample.
 - 2. Direct Deliver Two hundred fifteen dollars (\$215) per sample.
- (l) Plans Review - Review of designs for large conventional or large alternative subsurface sewage disposal systems to the point of permit issuance. Seven hundred fifty dollars (\$750) per proposed system.
- (m) Plat approval for individual lots. Sixty five dollars (\$65) per evaluated lot.
- (n) Domestic Septage Disposal Site Permit - Permit application processing, making inspections and other regulatory activity relative to domestic septage disposal sites. Permits shall be granted or denied within forty-five (45) days of receipt of all necessary information. Four hundred dollars (\$400).
- (o) Training - Non-state agencies and individuals. Calculated costs.
- (p) Certificate of Verification by homeowners of One hundred dollars (\$100).

existing system.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-22~~ 0400-48-01-22 Domestic Septage Disposal.

- (1) When permission for use is obtainable, a public, community or private wastewater treatment facility shall be used to dispose of domestic septage. When permission to use wastewater treatment facilities cannot be obtained, then a permitted domestic septage disposal site may be used in accordance with this rule. A domestic septage disposal site permit shall be obtained from the Commissioner.
- (2) Domestic Septage Disposal Site Permit - Any site used for the disposal of the domestic septage from septic tanks or other sewage treatment or disposal facilities covered within the provisions of these regulations shall require an annual permit from the Commissioner. The operator of the site shall obtain this permit prior to any use of the site and shall be responsible for the proper use and maintenance of the site.
- (3)
 - (a) No permit under this ~~section~~ rule shall be granted until:
 1. An application is filled out in its entirety, unless otherwise specified by the Commissioner;
 2. The operator has demonstrated to the Commissioner that he is capable of operating the site in accordance with the regulations as set forth herein; and
 3. The department has determined that the site meets the minimum requirements as set forth herein.
 - (b) A domestic septage disposal site permit may be denied, suspended or revoked when the disposal site does not meet the minimum requirements as set forth herein or where it is determined that the operator is not operating the site in accordance with the regulations as set forth herein.
- (4) Application for permit shall contain the following:
 - (a) Business name, address and telephone number of operator;
 - (b) Name, address and telephone number of applicant;
 - (c) Written permission of the landowner. The landowner must agree, in writing, to abide by the land use restrictions as provided in these rules;
 - (d) A high intensity soil map of the proposed disposal area prepared in accordance with Rules ~~1200-01-06-03~~ subparts (3)(a)1(i) and ~~1200-01-06-03~~ (3)(a)2(i) of Rule 0400-48-01-03. This map must note any areas where slope exceeds twelve (12) percent or where there is less than twenty-four (24) inches of soil material before subsurface bedrock formations, fragipans, seasonal high water table or water are encountered;
 - (e) A plat, with seal and signature of a registered surveyor, of sufficient scale and accuracy to locate pertinent features. This plat shall include, but not be limited to, the property boundaries, disposal boundaries, buildings, underground utilities, roads, surface waters, water supplies, water courses, sinks, sinkholes, caves, etc.;
 - (f) The crop to be grown on the disposal site for the coming year; and
 - (g) Any additional information that the Commissioner determines is necessary to properly evaluate the site.
- (5) Permits for Domestic Septage Disposal Site
 - (a) Permits shall not be transferable or assignable and shall automatically become invalid upon a change of land or business ownership or upon suspension or revocation.

- (b) Permits shall expire on the 31st day of December, following the date of issuance.
 - (c) When a permit has been denied, suspended or revoked, a hearing may be requested before the Commissioner by making such request in writing within thirty (30) days of the date of the denial, suspension or revocation. Any hearing granted under this section shall be conducted in accordance with T.C.A. §§ 4-5-301 et seq.
- (6) (a) Land application of domestic septage shall be approved as follows:
- 1. (i) The pH of the domestic septage shall be raised to a minimum of twelve (12) or higher by the addition of an alkali such as hydrated lime or quicklime, and without adding more alkali, the domestic septage shall remain at a pH of twelve (12) or higher for at least thirty (30) minutes prior to being land applied;
 - (ii) Domestic septage shall be injected below the surface of the soil. When domestic septage is injected below the surface of the soil, no significant amount of domestic septage shall be present on the surface of the soil within one (1) hour after the domestic septage is injected; or
 - (iii) Domestic septage shall be incorporated into the surface of the soil within six (6) hours of land application; and
 - 2. The vehicle must be in motion during land application to evenly distribute the domestic septage over the site. A splash plate or other effective method of dispersal shall be used for land application.
- (b) Grease and/or the contents of grease traps shall not be disposed of at any domestic septage disposal site approved under these rules.
 - (c) Commercial or industrial wastewater shall not be disposed of at any domestic septage disposal site approved under these rules.
 - (d) The contents of portable toilets, Type III marine sanitation devices, or similar materials shall not be applied to domestic septage disposal sites unless the site is approved in conjunction with the Director of the Division of ~~Ground Water Protection~~ Water Resources.
- (7) Site Restrictions
- (a) Soil requirements
 - 1. Domestic septage disposal sites shall have a slope of twelve (12) percent or less.
 - 2. The soil material in the domestic septage disposal site shall be at least twenty-four (24) inches deep before subsurface rock formations or seasonal ground water is encountered.
 - 3. Domestic septage disposal sites shall have a well-established sod cover unless domestic septage is injected below the soil surface or incorporated into the soil surface within six (6) hours of land application.
 - 4. The minimum soil absorption rate shall be thirty (30) minutes per inch. There are no upper limits on soil absorption rates.
 - (b) The annual application rate (AAR) for domestic septage shall not exceed the annual application rate calculated using the equation:

$$AAR = \frac{N}{0.0026}$$

Where:

AAR = Annual application rate in gallons per acre per 365 day period.

N = Amount of nitrogen in pounds per acre per 365 day period needed by the crop or vegetation grown on the land.

Once the annual application rate has been reached for an approved domestic septage disposal site, no additional domestic septage disposal will be allowed on that site during that calendar year.

- (c) The location of the disposal site shall be selected in accordance with the following minimum distances:
 - 1. Five hundred (500) feet from any habitable building or public use area. With the owner's permission, the site may be within a lesser distance of his residence.
 - 2. One hundred (100) feet from adjoining property, any highway or public road, sink, cave or bedrock outcrop.
 - 3. Three hundred (300) feet from surface waters or any point where it can pollute any water course or groundwater.
 - 4. Five hundred (500) feet from water supplies or bathing areas.
 - 5. No disposal in areas subject to flooding, as determined by the department.
- (d) Grazing restrictions - Animals shall not be allowed to graze on the land for thirty (30) days after application of domestic septage.
- (e) Public access to the domestic septage disposal site shall be restricted for one year after application of domestic septage. Examples of restricted access include remoteness, posting "no trespassing" signs and/or simple fencing.
- (f) Crop restrictions
 - 1. Food crops with harvested parts that touch the domestic septage/soil mixture and are totally above ground shall not be harvested for fourteen (14) months after application of domestic septage.
 - 2. Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight (38) months after application of domestic septage.
 - 3. Animal feed, fiber and those food crops that do not touch the soil surface shall not be harvested for thirty (30) days after application of domestic septage.
- (8) Facility Standards
 - (a) Storage facilities shall be identified and approved and must be used if pumping is continued when the site is not accessible or usable.
 - (b) Mixing facilities for lime and domestic septage shall be identified, inspected and approved by the Commissioner.
 - (c) Mixing tanks must be watertight, structurally sound and not subject to excessive corrosion or decay.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~4200-01-06-.23~~ 0400-48-01-.23 Maintenance Provider for Advanced Treatment Systems and Subsurface Drip Disposal Systems.

- (1) An approved maintenance provider shall be one who meets all of the following requirements:
 - (a) Any person who, on or after, the effective date of these rules, is or intends to become after the effective date of these regulations, a maintenance provider, shall make application for approval in writing on a form furnished by the department.
 - (b) After December 31, 2010, persons applying for approval to become a maintenance provider must have a high school education or equivalent.
- (2) No approval under this rule shall be granted until:
 - (a) An application is filled out in its entirety, unless otherwise specified by the Commissioner.
 - (b) The maintenance provider candidate attends and successfully complete a training course approved by the Division of ~~Ground-Water-Protection~~ Water Resources; and
 - (c) The maintenance provider candidate scores a grade of eighty (80) percent or above on a written test developed by the department. This test requirement does not apply, however, to a maintenance provider who was approved the previous year and who performed satisfactory work, as determined by the Division of ~~Ground-Water-Protection~~ Water Resources, during the previous year.
- (3) Approval to maintain ATS, SDD, or packaged systems may be denied where the applicant has had a previous approval denied, suspended or revoked, or has been shown to provide unsatisfactory work, where such unsatisfactory work is material to the subject matter of the approval. Failure to timely provide maintenance tasks required by the manufacturer or this Department shall constitute unsatisfactory work.
- (4) This Department will maintain a list of approved maintenance providers that have met the requirements of this rule and provided satisfactory work.
- (5) Approvals shall not be transferable or assignable and shall automatically become invalid upon any suspension or revocation becoming final.
- (6) When an approval has been denied, suspended or revoked, a hearing may be requested before the Commissioner by making such request in writing within thirty (30) days of the date of his denial, suspension, or revocation. Any hearing granted under this rule shall be conducted in accordance with T.C.A. §§ 4-5-301 et seq. If no such hearing is timely filed, the denial, suspension, or revocation is final.
- (7) Approvals shall expire on the 31st day of December following the date of approval.
- (8) An application for approval shall contain the following:
 - (a) Name of business;
 - (b) Business address and phone number;
 - (c) Owner's name;
 - (d) Address and phone number of owner; and
 - (e) Proof of Professional Development Hours (Renewal Only).
- (9) Annual Renewal
 - (a) Any maintenance provider approved in accordance with this rule will be responsible for obtaining at least 6 Professional Development Hours (PDH's) annually. Courses qualifying as having PDH's will be approved by this Department.

- (b) Maintenance provider approval annual renewal will be considered upon submittal of application and proof of PDH at the close of each calendar year.
- (10) Maintenance Providers Responsibilities:
- (a) Any maintenance provider approved in accordance with this rule shall be responsible to provide proof of the operation and maintenance agreement referenced in this rule and the deed of the property, and paying the appropriate tracking fee for each ATS, SDD, or packaged system that the provider has under an operation and maintenance contract. Proof of maintenance contract and the associated tracking fee shall be due on the anniversary of the certificate of completion of the system.
 - (b) Services provided by a maintenance provider shall include, but are not limited to, any operational or maintenance requirements in these rules for such systems operated and maintained.
 - (c) In the event that a property owner chooses not to renew or cancels an operation and maintenance contract with a maintenance provider, the maintenance provider shall notify the Department within 30 days of such action.
 - (d) Any maintenance provider approved in accordance with this rule will be responsible for maintaining manufacturers certification for any ATS models being maintained. Documentation of such certifications shall be provided to this department.
 - (e) Maintenance providers shall be responsible for notifying this Department of any condition, event, or failure of an ATS, SDD or packaged system that is outside the parameters of routine operation.
 - (f) Operation and maintenance visits shall be conducted by the approved maintenance provider. Any individual making such visits shall meet the requirements of this rule and be listed by this Department as an approved maintenance provider.

Authority: T.C.A. §§ 68-221-401 et seq. and 4-5-201 et seq.

~~1200-01-06-.24~~ 0400-48-01-.24 Severability.

(1) Severability

If any provision or application of any provision of these rules is held invalid, that invalidity shall not affect other provisions or applications of these rules.

Appendix I
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note
Abernathy	30	1
Adaton	> 75	2
Adler	30	1
Agee	> 75	4
Alcoa	45	
Allegheny	30	
Allen	45	
Alligator	> 75	4
Almaville	> 75	4
Almo	> 75	
Alticrest	30	5
Altavista	30	2
Alva	15	1
Amagon	75	1
Apison	45	5
Arkabutla	45	4
Armour	30	
Armuchee	> 75	5
Arrington	30	1
Ashe	15	3
Askew	45	1
Ashwood	> 75	3
Atkins	30	4
Augusta	> 75	2
Balfour	30	
Barbourville	15	1
Barfield	> 75	2
Barger		2,6
≥ 20 in to fragipan	75	
< 20 in to fragipan	> 75	
Bays	> 75	3
Baxter (Cherty)	60	
Beason	> 75	2
Bedford		
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Beechy	30	4
Bellamy		2,6
≥ 20 in to fragipan	75	
< 20 in to fragipan	> 75	
Bewleyville	45	
Bibb	15	4
Biffle	45	5
Biltmore	<10	1
Birds	30	4
Bland	> 75	3

Soil Series or Phase	Soil Absorption Rate	Note
Bloomington	> 75	4
Bodine (Cherty)	30	
Bolton	45	
Bonair	30	4
Bonn	> 75	2
Bosket	30	1
Boswell	> 75	
Bouldin	10	
Bowdre	30	4
Bradyville		
≥ 20 in to clay	75	
< 20 in to clay	> 75	
Brandon	30	
Brantley	> 75	
Brasstown	45	
Braxton		
≥ 24 in to clay	75	
< 24 in to clay	> 75	
Brevard	30	
Briensburg	30	1
Britton	> 75	
Brookshire	15	
Bruno	<10	1
Bryson		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Buncombe	<10	1
Burgin	> 75	2
Burton	30	3
Busselton		
≥ 20 in to fragipan	75	6
< 20 in to fragipan	> 75	
Byler		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Calhoun	> 75	2
Calloway	> 75	2
Calvin	> 75	3
Camp	30	1
Cannon	15	1
Capshaw	> 75	2
Captina		
≥ 24 in to fragipan	75	2
< 24 in to fragipan	> 75	2
Carbo	> 75	3
Cataska	> 75	

Appendix I (continued)
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note	Soil Series or Phase	Soil Absorption Rate	Note
Caylor	60		Delanco	30	2
Center	75	2	Dellrose (Cherty)	30	
Chagrin	30	1	Dewey	60	
Chenneby	45	2	Dexter	30	
Chewacla	30	4	Dickson		2
Chickasaw	> 75		≥ 24 in to fragipan	75	
Christian	> 75		< 24 in to fragipan	> 75	
Citico	45		Dilton	75	2
Claiborne	45		Ditney	30	5
Clarksville (Cherty)	30		Donerail	> 75	
Clarkrange		2	Dowelltown	> 75	2
≥ 24 in to fragipan	75		Dubbs	45	1
< 24 in to fragipan	> 75		Dulac		2
Clifton	45		≥ 24 in to fragipan	75	
Cloudland		2	< 24 in to fragipan	> 75	
≥ 24 in to fragipan	75		Dundee	60	4
< 24 in to fragipan	> 75		Dunmore		
Cobstone	15	1	≥ 24 in to clay	60	
Coghill	> 75	5	< 24 in to clay	75	
Coile	> 75	5	Dunning	> 75	2
Colbert	> 75		Dyer	45	4
Collegedale	> 75		Eagleville	> 75	3
Collins	30	1	Ealy	15	1
Commerce	60	4	Egam	> 75	1
Conasauga	> 75	2	Elk	45	
Conagree	15	1	Elkins	45	4
Convent	45	4	Elliber	30	
Cookeville	60		Ellisville	30	1
Corryton	> 75		Emory	30	1
Cotaco	30	1	Enders	> 75	
Craggey	> 75		Ennis	30	1
Craigsville	15	1	Enville	45	4
Crevassee	<10	1	Etowah	30	
Crider	30		Eustis	<10	
Crossville	30	3	Eupora	30	4
Culleoka	30	5	Evard	45	
Cumberland	45		Fairmount	> 75	3
Curtistown	30		Falaya	45	4
Cuthbert	> 75	3	Falkner	> 75	
Cynthiana	> 75	3	Fannin	30	5
Dandridge	> 75	3	Farragut		
Deanburg	30		≥24 in to shale material	75	
Decatur	45		< 24 in to shale material	> 75	
DeKalb	15	5	Fletcher	45	
Dekoven	> 75	4	Forestdale	> 75	4

Appendix I (continued)
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note
Fountain	> 75	2
Frankstown (Cherty)	45	
Freeland		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Fullerton (Cherty)	45	
Fullerton	60	
Gilpin	> 75	3
Gladdice	> 75	3
Gladeville	> 75	3
Godwin	> 75	4
Greendale (Cherty)	30	1
Grenada		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Groseclose	> 75	
Guin	15	
Gumdale	> 75	2
Guthrie	> 75	4
Guyton	> 75	2
Hagerstown	60	
Hamblen	30	1
Hampshire	> 75	
Hanceville	45	
Harpeth	30	
Hartsells	30	5
Hatchie	> 75	2
Hawthorne	45	5
Hayesville	45	
Hayter	45	
Hector	> 75	3
Hendon		2,6
≥ 20 in to fragipan	75	
< 20 in to fragipan	> 75	
Henry	> 75	2
Hermitage	30	
Hicks	45	
Hillwood	45	
Hiwassee	45	
Hollywood	> 75	2
Holston	45	
Humphreys	30	
Huntington	30	1
Hymon	30	1
Iberia	> 75	4

Soil Series or Phase	Soil Absorption Rate	Note
Ina	45	4
Inman	> 75	3
Iron City	60	
Iuka	30	1
Jeffrey	30	3
Jefferson	30	
Jefferson		
Stoney	15	
Cobbly	15	
Gravelly	15	
Johnsburg	> 75	2
Junaluska	45	5
Keener	45	
Landisburg	> 75	2
Lanton	> 75	1
Lawrence	> 75	2
Lax		
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Leadvale	> 75	2
Lee	30	4
Leesburg	30	
Lehew	30	5
Lewistown	> 75	
Lexington	30	
Lickdale	60	4
Lily	30	5
Lindell	30	1
Lindsay	30	1
Linker	30	5
Litz	> 75	3
Lintonia	45	
Lobdell	30	1
Lobelville	30	1
Lomond	45	
Lonewood	60	
Lonon	45	
Loring		
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Lost Cove	30	
Lucy	30	
Luverne	> 75	
Lynnville	45	4
Magnolia	> 75	

Appendix I (continued)
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note
Manse	30	
Mantachie	45	4
Marsh	45	3
Masada	30	
Matney	30	3
Maury	45	
Maymead	30	
McCamy	30	3
Melvin	45	4
Memphis	45	
Mercer		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Mhoon	60	4
Mimosa	> 75	
Minter	> 75	4
Minvale	45	
Minvale (Cherty)	30	
Morganfield	30	1
Monongahela		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Monteagle	60	3
Montevallo	> 75	3
Morehead	> 75	4
with drainage	75	
Mountview	45	
Muskingum	60	3
Mullins	> 75	4
Muse	> 75	
Natchez	60	
Needmore	> 75	5
Nella	15	
Nesbitt	75	
Neubert	15	1
Newark	30	4
Nixa		
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Noah	75	
Nolichucky	30	
Nolin	30	1
Norene	> 75	4
Northcove	30	
Nugent	<10	1

Soil Series or Phase	Soil Absorption Rate	Note
Oaklimeter	30	1
Ocana	15	1
Ochlochkonee	30	1
Oktibbeha	> 75	
Oliver	> 75	4
Ooltewah	30	1
Opeduon	> 75	3
Openlake	> 75	1
Orrville	30	4
Pace	75	2
Paden		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Pailo	60	
Paraloma		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Pembroke	45	
Perkinsville	45	
Petros	> 75	3
Pettyjon	45	1
Philo	30	1
Pickaway		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Pickwick	60	
Pikeville	45	
Platt	30	
Pope	30	1
Porters	30	5
Potomac	45	1
Prader	45	4
Prentiss		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Providence		2
≥ 24 in to fragipan	75	
< 24 in to fragipan	> 75	
Pruitton	45	1
Pottsville	> 75	3
Purdy	> 75	4
Ramsey	> 75	3
Ranger	45	5
Red Hills	45	5
Reelfoot	60	4

Appendix I (continued)
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note	Soil Series or Phase	Soil Absorption Rate	Note
Renox	45		Soco	45	5
Richland		2	Solway	> 75	3
≥ 24 in to fragipan	75		Spivey	15	
< 24 in to fragipan	> 75		Staser	30	1
Riverby	15	1	State	30	1
Roane	> 75	4	Statler	30	1
Roanoke	> 75	2	Steadman	> 75	4
Robertsville	> 75	4	(with drainage)	75	
Robinsonville	15	1	Steekee	> 75	3
Roellen	> 75	2	Steens	75	2
Rosebloom	45	4	Stemley		2
Routon	> 75	2	≥ 24 in to fragipan	75	
Russellville		2	< 24 in to fragipan	> 75	
≥ 24 in to fragipan	75		Stiversville	30	
< 24 in to fragipan	> 75		Suches		1
Ruston	30		(well drained)	45	
Saffell	30		(moderately well drained)		
Safford	> 75		with subsurface drain)	45	
Sandhill	15	3	Sugargrove	45	5
Sango		2	Sulphura	> 75	3
≥ 24 in to fragipan	75		Sullivan	30	1
< 24 in to fragipan	> 75		Sumter	> 75	
Savannah		2	Sunlight	> 75	3
≥ 24 in to fragipan	75		Susquehanna	> 75	
< 24 in to fragipan	> 75		Swafford		2
Sees	> 75		≥ 24 in to fragipan	75	
Sensabaugh	30	1	< 24 in to fragipan	> 75	
Sengtown	60		Swaim	> 75	
Sequatchie	30	1	Sweatman	> 75	
Sequoia	> 75		Sykes		
Sewanee	30	1	Depth to clay ≥ 30 in	60	
Shack		2,6	Depth to clay 24 - 30 in	75	
≥ 20 in to fragipan	75	6	Depth to clay < 24 in	> 75	
< 20 in to fragipan	> 75		Sylco	> 75	5
Shady	45		Taft	> 75	2
Shannon	30	1	Talbott	> 75	3
Shelocta	45		Talladega	> 75	3
Sharkey	> 75	4	Tallant	60	3
Shouns	60		Tarklin		2
Shubuta	75		≥ 24 in to fragipan	75	
Silerton			< 24 in to fragipan	> 75	
≥ 24 in to clay	75		Tasso		
< 24 in to clay	> 75		≥ 24 in to fragipan	75	
Skidmore	30	1	< 24 in to fragipan	> 75	
Smithdale	30		Tate	30	

Appendix I (continued)
Average Soil Absorption Rates (mpi) for Soil Series and Phases of Soil Series

Soil Series or Phase	Soil Absorption Rate	Note	Soil Series or Phase	Soil Absorption Rate	Note
Teas	> 75	3	Unicoi	> 75	3
Tellico	45		Upshur	> 75	
Tichnor	> 75	4	Urbo	> 75	
Tickfaw	> 75	4	Vacherie	> 75	4
Tigrett	30	1	Vaiden	> 75	2
Tilsit			Vicksburg	30	1
≥ 24 in to clay	75	2	Wakeland	45	4
< 24 in to clay	> 75	2	Wallen	45	5
Tioga	10	1	Watauga	30	5
Tippah			Waverly	45	4
≥ 24 in to clay	75		Waynesboro	60	
< 24 in to clay	> 75		Waynesboro (gravelly)	30	
Tiptonville	45	1	Weaver	30	1
Toccoa	> 75	1	Wehadkee	45	4
(with drainage)	30		Welchland	15	1
Tooterville	> 75	4	Wellston	75	
Townley	> 75	5	Weon	> 75	
Trace	45	1	Whitesburg	45	1
Transylvania	15	1	Whitwell	45	2
Trappist	> 75	5	Wilcox	> 75	
Tsali	> 75	5	Wolftever	> 75	2
Tunica	> 75	4	Woodmont	75	2
Tate	30		Woolper	> 75	
Tupelo	> 75	2	Worthen	30	2
Tuscumbia	> 75	4	Wynnvilleville		2
Tusquitee	30		≥ 24 in to fragipan	75	
Tyler	> 75	2	< 24 in to fragipan	> 75	
Una	> 75	4	Zenith	45	5
Unaka	30	5			

Notes

1. Flooding or standing water during brief periods of high rainfall makes many areas of these soils unsuitable even though the absorption rate is favorable. Areas protected from flooding or otherwise not subject to flooding may be suitable. These are dominantly well drained and moderately well drained soils along rivers and streams.
2. A seasonally high water table due to position in landscape and/or soil properties make most areas of these soils unsuitable.
3. Depth to bedrock is generally not sufficient to accommodate a septic tank system. There are some spots of these soils with adequate depths.
4. Flooding and / or a seasonally high water table make these soils unsuitable sites for subsurface sewage disposal systems. Areas protected from flooding and / or artificially drained may be suitable.
5. Depth to bedrock is generally sufficient to accommodate a filter field system. There are some spots of these soils with inadequate depths.
6. Depths less than twenty-four (24) inches and equal to or greater than twenty (20) inches shall be used on extra-high intensity soil maps in support of modified mound and drip dispersal consideration only.

Appendix II

SOIL ABSORPTION / PERCOLATION RATES AND
CORRESPONDING ABSORPTION AREA
REQUIREMENTS

Absorption / Percolation Rate (mpi)	Absorption Area (As Trench Bottom Rates Area)	
	(ft ² /gallon)	(ft ² /bedroom)
10	1.2	165
15	1.4	190
30	2.0	250
45	2.5	300
60	2.9	330
75	3.2	370
80	3.3	380
85	3.4	390
90	3.5	400
95	3.6	415
100	3.7	430
105	3.8	445

NOTE: Round percolation rates to next highest increment of five (5).

NOTE: Trenches of two (2) to three (3) feet in width are preferred. For trenches greater than three (3) feet in width, increase the absorption area by the following factors:

Trench Width	Factor
4 ft	1.33
6 ft	1.50
8 ft	1.60

EXAMPLES:

- The soil absorption rate is 15 minutes per inch. A factory with a daily flow of 3,000 gallons is to be located on this site.

$$\frac{(3000 \text{ gpd}) \left(1.4 \frac{\text{ft}^2}{\text{gallon}} \right)}{2 \text{ ft Trench}} = 2100 \text{ ft}$$

- The soil absorption rate is 30 minutes per inch. A 4 bedroom house is to be constructed.

$$\frac{\left(250 \frac{\text{ft}^2}{\text{Bedroom}} \right) (4 \text{ Bedrooms})}{3 \text{ ft Trench}} = 333 \text{ ft}$$

NOTE: Flow rates for non-residential establishments shall be based on the memo from Kent D. Taylor to the Division of Ground Water Protection Field Office Managers dated July 8, 1993, regarding expected sewage flow from non-residential establishments.

Appendix III

Friction Loss (ft), Through 100 ft of Schedule 40 PVC Pipe

Flow (gpm)	Pipe Diameter (in)							Flow (gpm)	Pipe Diameter (in)	
	1	1 1/4	1 1/2	2	3	4	6		4	6
1	0.09							200	2.32	0.32
2	0.32	0.09						225	2.88	0.39
3	0.68	0.18	0.08					250	3.50	0.48
4	1.17	0.31	0.14					275	4.18	0.57
5	1.76	0.46	0.22	0.06				300	4.91	0.67
6	2.47	0.65	0.31	0.09				325	5.69	0.77
7	3.28	0.86	0.41	0.12				350	6.53	0.89
8	4.20	1.10	0.52	0.15				375	7.41	1.01
9	5.22	1.37	0.65	0.19				400		1.14
10	6.35	1.67	0.79	0.23				425		1.27
11	7.57	1.99	0.94	0.28				450		1.41
12		2.34	1.10	0.33				475		1.56
13		2.71	1.28	0.38				500		1.72
14		3.11	1.47	0.43	0.06			550		2.05
15		3.54	1.67	0.49	0.07			600		2.40
16		3.98	1.88	0.56	0.08			650		2.79
17		4.46	2.10	0.62	0.09			700		3.20
18		4.95	2.34	0.69	0.10			750		3.63
19		5.47	2.58	0.77	0.11			800		4.09
20		6.02	2.84	0.84	0.12			850		4.58
25			4.29	1.27	0.19			900		5.09
30			6.02	1.78	0.25	0.07		950		5.63
35				2.37	0.35	0.09				
40				3.03	0.44	0.12				
45				3.77	0.55	0.15				
50				4.58	0.67	0.18				
60				6.42	0.94	0.25				
70					1.25	0.33				
80					1.60	0.43	0.06			
90					1.99	0.53	0.07			
100					2.41	0.64	0.09			
125					3.65	0.9	0.13			
150					6.11	1.36	0.19			
175					6.80	1.81	0.25			

NOTE: 160 psi pipe is assumed to be SDR 26.

Computed by the Hazen Williams Formula, assuming C = 140:

$$h_f = \frac{0.00113LQ^{1.85}}{D^{4.87}}$$

Where: h_f = Head Loss (ft)
 L = Pipe Length
 Q = Flow (gpm)
 D = Pipe Inside Diameter (in)

Authority: T.C.A. §§ 68-221-401 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:

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Environment and Conservation on 05-28-2013 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/13/13

Rulemaking Hearing(s) Conducted on: (add more dates). 04/09/13

Date: 5-28-13

Signature: [Handwritten Signature]

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner



Subscribed and sworn to before me on: May 28, 2013

Notary Public Signature: [Handwritten Signature]

My commission expires on: July 4, 2015

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.

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter
6-18-13
Date

Department of State Use Only

Filed with the Department of State on: 6/20/13

Effective on: 9/18/13

[Handwritten Signature]
Tre Hargett
Secretary of State

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SECRETARY OF STATE

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Environment and Conservation

DIVISION: Air Pollution Control

SUBJECT: Conflicts of Interest

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 68-201-105(e); 42 U.S. Code Section 7428

EFFECTIVE DATES: September 23, 2013, through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule amendment authorizes revises the conflict of interest policy for the members of the air pollution control board and the technical secretary to comply with the disclosure requirements of Tennessee Code Annotated, § 68-201-105(e).

This rule amendment also puts the board in compliance with the requirements of 42 U.S.C. § 7428 by requiring that a majority of the board's membership be persons who represent the public interest and do not derive any significant portion of their income from persons who are subject to air quality control permits or enforcement orders. It will be the duty of the technical secretary to advise the governor if a majority of the board's membership does not comply with such requirement and to recommend corrective action to the governor, including substitutionary appointments.

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.

Commentor: EPA (R. Scott Davis, Chief Air Planning Branch)

Comment: Please clarify whether the Technical Secretary's section 128 authorities are delegated to the Tennessee Department of [Environment and Conservation] staff. If so, please indicate whether such delegated officials are also subject to [Rule] 0400-30-17-.03 Conflict of Interest Disclosure Requirements described in the new rule. The EPA interprets the requirements of section 128(a) (1) as they may apply to the Technical Secretary as likewise applying to any officials exercising a delegation of that authority.

Response: The Technical Secretary does not delegate the statutory authority to issue orders. Therefore, it is not necessary to specify any restrictions on any other officials based on sec. 128.

Comment: [Rule] 0400-30-17-.02(1) of the new rule describes that the Board shall at its first meeting determine that it has a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders. Please clarify as to what happens in the event that such a determination cannot be made, or if the Board determines that some members do have a conflict. Please provide an explanation as to the path forward in either of those situations.

Response: Language was added to 0400-30-17-02 in a new paragraph (4) to provide for corrective action in the event the board cannot determine that at least a majority of its members met the board composition requirements in CAA sec. 128. The board will not act to hear cases unless it can make such a determination. The new language also allows for corrective action including appointment of new members if needed.

Comment: [Rule] 0400-30-17-.03(2) requires that the Technical Secretary deliver a written statement to the Board declaring any conflict of interest that he/she may have in a matter. The same [rule] requires Board Members with conflicts to make verbal declarations of such conflicts to the Board that are then included with the Board minutes. Please clarify how the Technical Secretary's statement is made available to the public under this process and whether the Board's minutes are available to the public for inspection.

Response: The Technical Secretary statement of a conflict of interest would be a public record and would be available to the public under Tennessee's Open records Act, Tenn. Code Ann. Sec. 10-7-503 and related statutes. Also, the board minutes are public records and available to the public pursuant to this state law.

Comment: It is not clear which entity or entities perform(s) the functions described by section 128(a) (1) of the CAA (i.e., approval of permits or enforcement orders under the CAA). Presumably these functions are carried out by the "Board" and "Technical Secretary" referenced in the new rule; however, this is not expressly stated. Please clarify which entity or entities perform(s) the section 128(a) (1) functions. Please also explain which entity or entities decide(s) administrative appeals of such actions and how such entity or entities meet(s) any applicable section 128(a) requirements.

Response: Under Tenn. Code Ann. § 68-201-104 the air pollution board is constituted with its members being appointed by the governor. Under Tenn. Code Ann. § 68-201-108 the board is granted the power to hear contested cases in administrative review of issuance or denial of permits. Under Tenn. Code Ann. § 68-201-116, the board is granted the power of administrative review of orders for corrective action for violations under the Tennessee Air Quality Act and its implementing rules or for assessment of civil penalties in enforcement for violations of the Tennessee Air Quality Act

and its implementing rules. The Technical Secretary exercises enforcement power by statute at Tenn. Code Ann. § 68-201-116 and issues permits under power created in rules promulgated by the board.

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.

New Rule 0400-30-17-.05 is adopted to comply with § 5 of Public Chapter No. 765 passed in 2012 and now codified as T.C.A. § 68-201-105(e), which requires the Board to implement rules and regulations to create a conflict of interest policy for the Board, therefore, it is exempt from the requirements of T.C.A. §§ 4-5-401 et seq.

New Rule 0400-30-17-.02 is adopted to address a deficiency identified by EPA. According to EPA, Tennessee's Air Pollution Control program fails to comply with Clean Air Act by failing to comply with the board requirements of 110(a)(2)(E)(ii) and the requirements of 128(a)(1). CAA 128(a)(1) requires any board or body which approves permits or enforcement orders to have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the CAA. New Rule 0400-30-17-.02 contains definitions and requirements that will enable to Board to clearly determine if it has a majority of members who represent the public interest. Since these requirements are mandated by federal law this new rule is exempt from the requirements of T.C.A. §§ 4-5-401 et seq.

Renumber these rules by repealing Chapter 1200-03-17 and move them to a new Chapter 0400-30-17 are not directly applicable to small businesses and only apply to the Technical Secretary and members of the Air Pollution Control Board.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The renumbering of Chapter 1200-03-17 to Chapter 0400-30-17 does not impact small businesses.

- (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.

None.

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

None.

- (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.

None.

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

All state air pollution control programs are subject to the small federal requirements.

- (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.

Not applicable.

Impact on Local Governments

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

The Department anticipates that this amended rule will not have a financial impact on local governments.

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For Department of State Use Only

Sequence Number: 06-28-13
Rule ID(s): 5500-5501
File Date: 6/25/13
Effective Date: 9/23/13

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 and Conservation
Division:	Air Pollution Control
Contact Person:	Malcolm H. Butler
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0600
Email:	Malcolm.Butler@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
0400-30-17	Conflict of Interest
Rule Number	Rule Title
0400-30-17-.01	Purpose and Intent
0400-30-17-.02	Protecting the Public Interests
0400-30-17-.03	Conflict of Interest on the Part of the Board and Technical Secretary
0400-30-17-.04	Conflict of Interest in the Permitting of Municipal Solid Waste Incineration Units
0400-30-17-.05	Policy of Ethics and the Avoidance of Conflicts of Interest

Chapter Number	Chapter Title
1200-03-17	Conflict of Interest
Rule Number	Rule Title
1200-03-17-.01	Purpose and Intent
1200-03-17-.02	Conflict of Interest on the Part of the Board and Technical Secretary
1200-03-17-.03	Conflict of Interest in the Permitting of Municipal Solid Waste Incineration Units

(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>)

Repeal

Chapter 1200-03-17 Conflict of Interest

Chapter 1200-03-17 Conflict of Interest is repealed.

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

New Rule

Chapter 0400-30-17 Conflict of Interest

Table of Contents

0400-30-17-.01 Purpose and Intent

0400-30-17-.02 Protecting the Public Interests

0400-30-17-.023 Conflict of Interest on the Part of the Board and Technical Secretary

0400-30-17-.034 Conflict of Interest in the Permitting of Municipal Solid Waste Incineration Units

0400-30-17-.05 Policy of Ethics and the Avoidance of Conflicts of Interest

~~1200-3-17-.04~~ 0400-30-17-.01 Purpose and Intent

- (1) It is the purpose of this ~~Chapter~~ chapter to address ~~a conflict of interest as described in the requirements for the state air pollution control board imposed through the federal Clean Air Act, as amended, (42 USC §§ 7401 et seq. November 15, 1990) with respect to the composition of the board and conflict-of-interest provisions in hearing cases involving permits and enforcement and also to adopt a conflict of interest policy required by T.C.A. § 68-201-105(e).~~ Conflict of interest described at 42 USC ~~Section § 7428~~ is addressed in Rules ~~.02 of this Chapter 0400-30-17-.02 and 0400-30-17-.03.~~ Conflict of interest described at 42 USC ~~Section § 7429(e)~~ is addressed in Rule ~~.03 of this Chapter 0400-30-17-.04.~~ The conflict of interest policy required by T.C.A. § 68-201-105(e) is addressed in Rule 0400-30-17-.05.

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

0400-30-17-.02 Protecting the Public Interest

- (1) The Board shall at its first meeting in a calendar year or after receiving a new member determine that it has at least a majority of members who represent the public interest and who do not derive any significant portion of their income from persons subject to permits or enforcement orders under this rule division, 0400-30 or rule division 1200-03.

(2) Definitions

(a) "Represent the public interest" means not owning a controlling interest in, having 5% or more of his or her capital invested in, serve as attorney for, act as a consultant for, serve as officer or director of, or hold any other official or contractual relationship with, either a person subject to permits or enforcement orders under this rule division, 0400-30 or rule division 1200-03, or a trade or business association of which such a person is a member.

(b) "Significant portion of income" means 10% or more of gross personal income for a calendar year, including retirement benefits, consultant fees, and stock dividends, except that it shall mean 50% or more of gross personal income for a calendar year if the recipient is over 60 years of age and receiving such a portion pursuant to retirement, pension, or similar arrangement. The term "significant portion of income" also means any one or more of the following situations:

1. When the Technical Secretary or the Board Member receives more than \$5,000 annually

in investment income from a source. Said investment is limited to those that arise from the purchase of shares of stock in the source that were purchased on the open market and generally available to any person at that price.

2. When the Technical Secretary or Board Member receives more than \$100 annually due to a private investment made in a source. Said private investment is one where the purchase of stock or interest in a partnership was made directly with the source and such opportunity was not generally available to the public as a whole.
3. When the Technical Secretary or Board Member receives a salary in any amount from a source for services rendered.
4. When the Technical Secretary or Board Member sells or is about to sell property or equipment to a source. For the purposes of this part, equipment does not include consumer goods that are offered to the public at the same price offered to the source.
5. When the Technical Secretary or Board Member buys or is about to buy property or equipment from a source. For the purposes of this part, equipment does not include consumer goods that can be purchased by the public at the same price the source offered to the Technical Secretary or Board Member.
6. When the Technical Secretary or Board Member has taken out a loan from a source in any amount unless:
 - (i) The loan is from a financial institution whose deposits are insured by an entity of the federal government, or such loan is made in accordance with existing law and is made in the ordinary course of business. A loan is made in the ordinary course of business if the lender is in the business of making loans, and the loan bears the usual and customary interest rate of the lender for the category of loan involved is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule;
 - (ii) The loan is secured by a recorded security interest in collateral, bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule.

For purpose of this subparagraph, income derived from mutual-fund payments, or from other diversified investments as to which the recipient does not know the identity of the primary sources of income, shall be considered part of the recipient's gross personal income but shall not be treated as income derived from persons subject to permits or enforcement orders under this rule division, 0400-30 or rule division 1200-03.

- (c) "Persons subject to permits or enforcement orders under this rule division, 0400-30 or rule division 1200-03" or a "source" as used in this chapter includes any individual, corporation, partnership, or association who holds, is an applicant for, or is subject to any permit, or who is or may become subject to any enforcement order under this rule division, 0400-30 or rule division 1200-03, except that it does not include:
1. An individual who is or may become subject to an enforcement order by reason of his or her ownership or operation of a motor vehicle,
 2. Any department or agency of a state, local, or regional government; or
 3. Any individual who is involved in the program of an institute of higher learning whose duties do not include the institute's compliance with this rule division, 0400-30 or rule division 1200-03.

(3) Upon the request of the Technical Secretary, members of the Board shall provide the necessary information needed to determine compliance with paragraph (1) of this rule.

- ~~(4) In the event that the Board cannot make a finding that at least a majority of the Board as constituted by appointment of its members meets the requirements required by the Clean Air Act, as amended, at § 128 (42 USC § 7428), then the Technical Secretary shall notify the Governor of the Board's failure to make a determination that at least a majority of its membership meets § 128 requirements. The Technical Secretary shall also advise and make recommendations regarding corrective action necessary to allow the Board to be qualified under § 128 including substitutionary appointments of a member or members. The Board shall not act to hear contested cases until it has determined that it can do so consistent with § 128.~~

~~4200-3-17-02 0400-30-17-03~~ Conflict of Interest on the Part of the Board and Technical Secretary

- (1) Definition - A "conflict of interest" occurs when a Board member or the Technical Secretary takes an action in the performance of their duties that singularly benefits a source when the Board member or the Technical Secretary has a significant portion of their personal income derived from the operations of said source.

~~(a) The term "significant portion of personal income" shall mean any one or more of the following situations as it relates to the personal income of a Board member or Technical Secretary:~~

- ~~1. When the Technical Secretary or the Board Member receives more than five thousand dollars (\$5,000) annually in investment income from the source. Said investment is limited to those that arise from the purchase of shares of stock in the source that were purchased on the open market and generally available to any person at that price.~~
- ~~2. When the Technical Secretary or Board Member receives more than one hundred dollars annually (\$100) due to a private investment made in the source. Said private investment is one where the purchase of stock or interest in a partnership was made directly with the source and such opportunity was not generally available to the public as a whole.~~
- ~~3. When the Technical Secretary or Board Member receives a salary in any amount from the source for services rendered.~~
- ~~4. When the Technical or Board Member sells or is about to sell property or equipment to the source. For the purposes of this part, equipment does not include consumer goods that are offered to the public at the same price offered to the source.~~
- ~~5. When the Technical Secretary or Board Member buys or is about to buy property or equipment from the source. For the purposes of this part, equipment does not include consumer goods that can be purchased by the public at the same price the source offered to the Technical Secretary or Board Member.~~
- ~~6. When the Technical Secretary or Board Member has taken out a loan from the source in any amount unless:
 - ~~(i) The loan is from a financial institution whose deposits are insured by an entity of the federal government, or such loan is made in accordance with existing law and is made in the ordinary course of business. A loan is made in the ordinary course of business if the lender is in the business of making loans, and the loan bears the usual and customary interest rate of the lender for the category of loan involved is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule;~~
 - ~~(ii) The loan is secured by a recorded security interest in collateral, bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule.~~~~

~~(b) The actual or potential receipt of penalties, judgments, grant awards, or fees by the State of Tennessee as a result of promulgated rules, orders by the Technical Secretary, Board orders, judgments~~

awarded in a court of law, or grant applications to government or private entities shall not identify the State of Tennessee as a source as that term is ~~used in 1200-3-17-02(1) defined in subparagraph (2)(c) of Rule 0400-30-17-02.~~ If a specific case involves a source of pollution owned or operated by state or federal government, the Technical Secretary or Board member shall have a conflict of interest only if a significant portion of his or her income is derived from the operation of that source of pollution.

~~(c) For the additional purpose of defining a conflict of interest, the Board recognizes the Department's conflict of interest policy governing Department employees.~~

- (2) Declaration - Prior to the issuance of a permit, variance or an enforcement order that requires an action on their part, the Technical Secretary or a Board member shall issue a written statement that declares any conflict of interest that they may have in the matter. Statements by the Technical Secretary shall be written and delivered to the Chairman or Vice-Chairman of the Board. Statements by Board members ~~shall may either be in writing or~~ be verbal and made part of the Board Meeting minutes. No Board Member or the Technical Secretary shall be required to quantify their conflict of interest or make a more detailed explanation of their conflict ~~unless they wish to make a detailed disclosure than otherwise required by Rule 0400-30-17-05 or by T.C.A. § 4-5-302.~~ For the purpose of this ~~Chapter 1200-3-17 chapter,~~ a "yes" or "no" declaration is sufficient and that is required only if a conflict of interest is present.
- (3) Rulemaking Exclusion - It is recognized that the Board's make-up is such that certain interest groups are represented by each Board member. To that end, a Board member supporting rulemaking for their interest group as a whole will not be viewed as having a conflict of interest for such advocacy. However, industry-specific rulemaking that would relax an otherwise general emission standard or procedural requirement for a source that causes a Board member to have a conflict of interest shall be subject to a disclosure of conflict of interest by Board members.
- (4) Procedure When A Conflict of Interest is Encountered –
 - (a) Procedure for the Technical Secretary - In the event that the Technical Secretary has a conflict of interest, his actions in such matters shall be subject to ratification by the Board. The Board shall have the power to affirm, modify or set aside the proposed actions of the Technical Secretary. Upon ratification, the Technical Secretary's action shall become final.
 1. Any timelines for action placed upon the Technical Secretary or Department in ~~Division 1200-3 this rule division, 0400-30 or rule division 1200-03,~~ shall be extended by the amount of time needed to bring the proposed action to the Board for review and ratification. Deadlines for action imposed by federal regulations of the United States Environmental Protection Agency are not eligible for such extension. Similarly, deadlines specifically imposed in Tennessee statutes are not eligible for such extension.
 - (b) Procedure for Board Members - In the event that a Board member has a conflict of interest, the following procedures shall apply:
 1. If a Board member has a conflict of interest as that term is defined in this ~~Chapter 1200-3-17 chapter,~~ the Board member ~~shall answer "abstain" when voting in any roll call vote upon a matter before the Board for a decision shall recuse himself or herself from participation in the matter for which the conflict exists as provided in Rule 0400-30-17-.05.~~

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

~~1200-3-17-03 0400-30-17-04~~ Conflict of Interest in the Permitting of Municipal Solid Waste Incineration Units

- (1) No permit for a solid waste incineration unit that combusts municipal waste shall be issued by the Technical Secretary if he is responsible in whole or part, for the design and construction or operation of the unit. In the event that the Technical Secretary faces such a permit decision, the procedures of subparagraph ~~1200-3-17-02~~ (4)(a) of Rule 0400-30-17-03 shall apply to his development of a draft permit for Board ratification.
- (2) No permit for a solid waste incineration unit that combusts municipal solid waste shall be approved or

denied by a Board member that is a person responsible in whole or part, for the design and construction or operation of the unit. ~~Any vote by such~~ Such Board member ~~on such unit shall be answered by "abstain"~~ shall recuse himself or herself as provided in Rule 0400-30-17-.05.

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

0400-30-17-.05 Policy of Ethics and the Avoidance of Conflicts of Interest

(1) The Policy of the Board

- (a) No member of the Board shall participate in making any decision concerning a permit, enforcement case, or upon a case in which the municipality, firm or organization which the member represents, or by which the member is employed, or in which the member derives a significant portion of income, is involved, or is in any way a conflict of interest as defined by Rules 0400-30-17-.03 and 0400-30-17-.04.
 - (b) Each member of the Board shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - 1. Using public office for private gain;
 - 2. Losing complete independence or impartiality;
 - 3. Making a government decision outside of official channels; or
 - 4. Affecting adversely the confidence of the public in the integrity of the government.
 - (c) No member of the Board shall, directly or indirectly:
 - 1. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the board and which has not been made available to the general public for the purpose of furthering the private interest or personal profit or any person, including the board member; or
 - 2. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her appointment to the board.
 - (d) No member of the Board shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is de minimis or it's lawfully available to the general public.
 - (e) Each member of the Board shall avoid all known conflicts of interest, and to the extent the member of the Board becomes aware of a conflict of interest in connection with any matter brought before the Board, the member of the Board shall disclose such conflict, as provided in paragraph (2) of Rule 0400-30-17-.03, to the other members of the Board, Administrative Law Judge, and/or other appropriate person(s) and will further recuse himself or herself from participating in any consideration of the matter.
 - (f) No member of the Board shall participate in discussions or actions involving individuals in his or her immediate family, individuals employed by the member of the Board or the member of the Board's business or any other matter in which the member of the Board's participation may create an appearance of bias or impropriety.
 - (g) When a member of the Board is in doubt as to the proper interpretation of this rule, he or she shall seek the advice of the Department's Office of General Counsel.
- (2) Each member of the Board during the first meeting of the Board each calendar year, or the member's first attendance of a Board meeting of the calendar year, shall:
- (a) Make a written disclosure of financial interests or other possible conflicts of interest;

(b) Acknowledge in writing that they have read and understand all aspects of this rule; and

(c) State as a condition of serving as a member of the board that he or she is not in conflict with the conditions of this rule.

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)
J. Ronald Bailey	✓				J. Ronald Bailey
Elaine Boyd	✓				Elaine Boyd
Brian Christman				✓	
Karen Cisler	✓				Karen Cisler
Wayne T. Davis	✓				Wayne Davis
Stephen Gossett	✓				Stephen Gossett
Tommy Green	✓				Tommy Green
Shawn A. Hawkins				✓	
Helen Hennon	✓				Helen S. Hennon
Richard Holland	✓				Richard Holland
John Roberts				✓	
Larry Waters	✓				Larry Waters
Jimmy West	✓				Jimmy West
Alicia Wilson				✓	

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 06/12/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/04/12

Rulemaking Hearing(s) Conducted on: (add more dates). 01/29/13



Date: June 12, 2013

Signature: *Barry R. Stephens*

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: June 12, 2013

Notary Public Signature: *Carol L. Grice*

My commission expires on: June 21, 2016

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.
Robert E. Cooper, Jr.
Attorney General and Reporter
6-20-13

Date

Department of State Use Only

Filed with the Department of State on: 6/25/13

Effective on: 9/23/13

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	State Board of Education
<u>DIVISION:</u>	
<u>SUBJECT:</u>	Graduation With Honors, State Honors and State Distinction
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Section 49-1-302
<u>EFFECTIVE DATES:</u>	November 28, 2013, through June 30, 2014
<u>FISCAL IMPACT:</u>	Minimal
<u>STAFF RULE ABSTRACT:</u>	<p>This rule amendment authorizes LEAs to design student recognition programs that allow students to graduate "with honors" if they have met the graduation requirements and obtained a GPA of at least 3.0. LEAs will be authorized to require a higher minimum GPA and specify additional requirements in order for a student to graduate "with honors".</p> <p>Currently, Rule 0520-01-03-.06(c) provides that students who score at or above all of the subject area readiness benchmarks on the ACT or equivalent score on the SAT will graduate "with honors". Students who qualify to graduate "with honors" under the current rule will qualify to graduate "with state honors" under the new rule.</p> <p>Currently, Rule 0520-01-03-.06(c) also provides that students who attain a B average and complete at least one additional outstanding academic achievement will graduate "with distinction". Students who qualify to graduate "with distinction" under the current rule will qualify to graduate "with state distinction" under the new rule.</p>

Regulatory Flexibility Addendum

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

Not Applicable.

Impact on Local Governments

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

This will have no impact on local governments.

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Sequence Number: 06-15-13
Rule ID(s): 5493
File Date: 6/18/13
Effective Date: 11/28/13

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:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	9 th Floor, 710 James Robertson Parkway, Andrew Johnson Tower, Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-01-03	Minimum Requirements for the Approval of Public Schools
Rule Number	Rule Title
0520-01-03-.06	Graduation, Requirement E

Chapter Number	Chapter Title
Rule Number	Rule Title

CHAPTER 0520-01-03
Minimum Requirements for the Approval of Public Schools
Amendment

0520-01-03-.06 GRADUATION, REQUIREMENT E.

(c) Graduation with Honors, State Honors, and State Distinction

1. School systems may design student recognition programs that allow students to graduate with honors if they have met the graduation requirements and have obtained an overall grade point average of at least a 3.0 or higher on a 4.0 scale. School systems may set a higher GPA at their discretion. School systems may specify additional requirements, such as requiring students to demonstrate performance of distinction in one (1) or more areas.

2. Students who score at or above all the subject area readiness benchmarks on the ACT or equivalent score on the SAT will graduate with state honors.

Each local school board shall develop a policy prescribing how students graduating with "state honors" will be noted and recognized.

3. Students will be recognized as graduating with "state distinction" by attaining a B or better average and completing one of the following:

- (i) earn a nationally recognized industry certification
- (ii) participate in at least one (1) of the Governor's Schools
- (iii) participate in one (1) of the state's ALL State musical organizations
- (iv) be selected as a National Merit Finalist or Semi-Finalist
- (v) attain a score of thirty one (31) or higher composite score on the ACT
- (vi) attain a score of three (3) or higher on at least two advanced placement exams
- (vii) successfully complete the International Baccalaureate Diploma Programme
- (viii) earn twelve (12) or more semester hours of transcribed postsecondary credit

Each local school board shall develop a policy prescribing how students graduating with "state distinction" will be noted and recognized.

~~Graduation with Honors and Distinction.~~

~~Students who score at or above all of the subject area readiness benchmarks on the ACT or equivalent score on the SAT will graduate with honors.~~

~~Students will be recognized as graduating with "distinction" by attaining a B average and completing at least one of the following:~~

~~earn a nationally recognized industry certification~~

~~participate in at least one (1) of the Governor's Schools~~

~~participate in one (1) of the state's All State musical organizations~~

~~be selected as a National Merit Finalist or Semi-Finalist~~

~~attain a score of thirty-one (31) or higher composite score on the ACT~~

~~attain a score of three (3) or higher on at least two (2) advanced placement exams~~

~~successfully complete the International Baccalaureate Diploma Programme~~

~~earn twelve (12) or more semester hours of transcribed postsecondary credit~~

~~Each local school board shall develop a policy prescribing how students graduating with "distinction" will be noted and recognized.~~

* 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)
Ayers	X				
Edwards	X				
Justice	X				
Pearre	X				
Roberts	X				
Rogers	X				
Rolston	X				
Sloyan	X				
Wright	X				
Student Member				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 2/1/13, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 5-24-13

Signature: *Gary L. Nixon*

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES:
January 9, 2016

Subscribed and sworn to before me on: 5/24/13

Notary Public Signature: *Phyllis E. Childress*

My commission expires on: _____

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

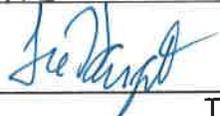
6-10-13

Date

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Filed with the Department of State on: 6/18/13

Effective on: 11/28/13


Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Education

DIVISION:

SUBJECT: Licensure

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

EFFECTIVE DATES: November 28, 2013, through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule amendment requires the state board of education to revoke the license without right of a hearing of any teacher or administrator who is convicted of sexual battery by an authority figure. This rule amendment purports to require the state board of education to revoke the license without right of a hearing of any teacher or administrator who is convicted of statutory rape by an authority figure; provided, however, that the rule amendment contains a typographical error and cites T.C.A. § 39-13-537 instead of T.C.A. § 39-13-532.

Currently, Rule 0520-02-04(9)(a) requires the state board of education to revoke the license without right of a hearing of any teacher or administrator who is convicted of murder in the first degree, murder in the second degree, especially aggravated kidnapping, aggravated kidnapping, especially aggravated robbery, aggravated rape, rape, aggravated sexual battery, rape of a child, aggravated arson, aggravated child abuse, aggravated rape of a child, sexual exploitation of a minor involving more than 100 images, aggravated sexual exploitation of a minor involving more than 25 images, especially aggravated sexual exploitation of a minor, or a felony drug offense. Additionally, Rule 0520-02-04(9)(b) authorizes the state board of education to revoke, suspend, reprimand formally, or refuse to issue or renew a license for various reasons including, but not limited to, conviction of a felony.

Regulatory Flexibility Addendum

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

Not Applicable.

Impact on Local Governments

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

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Sequence Number: 06-16-13
 Rule ID(s): 5492
 File Date: 6/18/13
 Effective Date: 11/28/13

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:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	9 th Floor, 710 James Robertson Parkway, Andrew Johnson Tower, Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-02-04	Licensure
Rule Number	Rule Title
0520-02-04-.01	General Information and Regulations

Chapter Number	Chapter Title
Rule Number	Rule Title

CHAPTER 0520-02-04
General Information and Regulations
Amendment

(9) Denial, Suspension and Revocation of License.

- (a) Automatic Revocation of License. The State Board of Education shall automatically revoke the license of a licensed teacher or administrator without the right to a hearing upon receiving verification of the identity of the teacher or administrator together with a certified copy of a criminal record showing that the teacher or school administrator has been convicted of any felony or offense listed at T.C.A. §§ 40-35-501(i)(2), 39-17-417, 39-13-537, and/or 39-13-527 (including conviction on a plea of guilty or nolo contendere). The Board will notify persons whose licenses are subject to automatic revocation at least 30 days prior to the Board meeting at which such revocation shall occur.~~The State Board of Education shall automatically revoke the license of a licensed teacher or administrator without the right to a hearing upon receiving verification of the identity of the teacher or administrator together with a certified copy of a criminal record showing that the teacher or school administrator has been convicted of any felony or offense listed at T.C.A. § 40-35-501(i)(2) or T.C.A. § 39-17-417 (including conviction on a plea of guilty or nolo contendere). The Board will notify persons whose licenses are subject to automatic revocation at least 30 days prior to the Board meeting at which such revocation shall occur.~~

* 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)
Ayers	X				
Edwards	X				
Justice	X				
Pearre	X				
Roberts	X				
Rogers	X				
Rolston	X				
Sloyan	X				
Wright	X				
Student Member				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 2/1/13, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 5-24-13

Signature: [Handwritten Signature]

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES: January 9, 2016

Subscribed and sworn to before me on: 5/24/13

Notary Public Signature: [Handwritten Signature]

My commission expires on: _____

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

[Handwritten Signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

6-10-13

Date

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Filed with the Department of State on: 6/18/13

Effective on: 11/28/13



Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Education

DIVISION:

SUBJECT: Children in Infant/Toddler, Preschool and School-Age Extended Care Programs

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

EFFECTIVE DATES: November 28, 2013, through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This rule amendment requires that children diagnosed with scabies or lice have proof of treatment prior to re-admission to an infant/toddler, preschool or school-age extended care program.

Currently, Rule 0520-12-14(10)(b) requires that children diagnosed with scabies or lice have proof of treatment and be free of nits prior to re-admission to an infant/toddler, preschool or school-age extended care program. Rule 1200-14-01-.24 of the department of health provides that, with respect to an infestation of lice or scabies, it is the duty of school authorities for any public, private, or church-related school and day care or Head Start authorities to follow the guidelines promulgated by the U. S. Centers for Disease Control and Prevention. At any time the department of health receives notice that those guidelines have been modified, it must promptly notify the department of education.

Regulatory Flexibility Addendum

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

Not Applicable.

Impact on Local Governments

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

This will have no impact on local governments.

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Sequence Number: 06-17-13
Rule ID(s): 5494
File Date: 6/18/13
Effective Date: 11/28/13

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:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
Address:	9 th Floor, 710 James Robertson Parkway, Andrew Johnson Tower, Nashville, TN
Zip:	37243
Phone:	615-253-5707
Email:	Dannelle.Walker@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0520-12-01	Standards for Infant/Toddler, Preschool and School-Age Extended Care Programs
Rule Number	Rule Title
0520-12-01-.10	Health and Safety

Chapter Number	Chapter Title
Rule Number	Rule Title

CHAPTER 0520-12-01
Standards for Infant/Toddler, Preschool and School-Age Extended Care Programs
Amendment

(10) Contagious Conditions:

- | (b) Children diagnosed with scabies or lice shall have proof of treatment ~~and be free of nits~~ prior to re-admission.

* 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)
Ayers	X				
Edwards	X				
Justice	X				
Pearre	X				
Roberts	X				
Rogers	X				
Rolston	X				
Sloyan	X				
Wright	X				
Student Member				X	

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 2/1/13, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 5-24-13

Signature: *Gary L. Nixon*

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES: January 9, 2016

Subscribed and sworn to before me on: 5/24/13

Notary Public Signature: *Phyllis E. Childress*

My commission expires on: _____

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.

RE Cooper

Robert E. Cooper, Jr.
Attorney General and Reporter

6-10-13

Date

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Filed with the Department of State on: 6/18/13

Effective on: 11/28/13

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Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY/BOARD/COMMISSION: Tennessee Student Assistance Corporation (TSAC)

DIVISION: Higher Education

SUBJECT: Helping Heroes Grant Program

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 49-4-201, 49-4-204, 49-4-902, 49-4-924 and 49-4-938

EFFECTIVE DATES: November 28, 2013 through June 30, 2014

FISCAL IMPACT: Minimal.

STAFF RULE ABSTRACT: The Helping Heroes Grant Program was created to assist Tennessee veterans, who were honorably discharged from the armed forces of the United States or former members of a reserve or Tennessee National Guard unit called into active duty, in completing their college education. To be eligible, the Tennessee veteran must have been awarded the Iraq Campaign Medal, Afghanistan Campaign Medal or Global War on Terrorism Expeditionary Medal. Despite Rule 1640-01-22-.04 allowing the Global War on Terrorism Expeditionary Medal to have been awarded after September 1, 2001 under the eligibility requirements, the authorizing statute, Tennessee Code Annotated § 49-4-938, requires such medal to have been awarded after September 11, 2001.

The grant program is funded from net lottery proceeds as part of the Tennessee Education Lottery Scholarship (TELS) Program in Tennessee Code Annotated, Title 49, Chapter 4, Part 9.

The proposed changes to the rules include replacing the word "Corporation" with the acronym "TSAC" throughout the chapter; adding a definition for "Active Military Service of the United States;" amending the definition of the term "veteran;" eliminating the restriction of three hundred seventy-five awards since not all students receive the full award and available money is left unused; changing the application deadline for summer enrollment from February

1 to May 1; and allowing current members of a reserve or Tennessee National Guard unit to participate in this program.

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. The statute requires that as a part of its analysis, each agency shall prepare an economic impact statement as an addendum to each rule that is deemed to affect small businesses, which shall be published in the Tennessee Administrative Register, filed with the Secretary of State's Office, and made available to all interested parties, including the Secretary of State, Attorney General, and the House and Senate Government Operations Committees.

The agency shall consider without limitation, certain methods of reducing the impact of the proposed rule on small businesses while remaining consistent with health, safety and well-being and those methods are as follows: the extent to which the proposed rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules; clarity, conciseness, and lack of ambiguity in the proposed rule or rules; the establishment of flexible compliance and/or reporting requirements for small businesses; the establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses; the consolidation or simplification of compliance or reporting requirements for small businesses; the establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule; and the unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

Description of Proposed Rule

Pursuant to T.C.A. § 4-5-202, the Tennessee Student Assistance Corporation (TSAC) intends to file proposed rules, Chapter 1640-01-22, Helping Heroes Grant Program, as amended rules, in lieu of a rulemaking hearing. It is the intent of TSAC to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of issue of the Tennessee Administrative Register in which the proposed rules are published. The Helping Heroes Grant Program was created to assist Tennessee veterans, honorably discharged from the armed forces of the United States or a former member of a reserve or Tennessee National Guard unit called into active duty, that have been awarded the Iraq Campaign Medal, the Afghanistan Campaign Medal, or the Global War on Terrorism expeditionary Medal (awarded on or after September 11, 2001) in completing their college education, funded from net lottery proceeds as part of the Tennessee Education Lottery Scholarship (TELS) Program in Tennessee Code Annotated, Title 49, Chapter 4, Part 9. These rules are being promulgated due to Public Chapter No. 501 of the 2009 Tennessee Public Acts that allows for current members of a reserve or Tennessee National Guard unit to participate in this program. Additionally, the restriction of three-hundred and seventy five awards was eliminated since not all students receive the full award, thus leaving available money unused.

Regulatory Flexibility Analysis - Methods of Reducing the Impact of Rules on Small Businesses

1. Overlap, duplicate, or conflict with other federal, state, and local governmental rules:

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

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

The proposed rules were patterned to ensure clarity and conciseness of the language of the rules and to eliminate possible ambiguity in the interpretation of the rules.

3. Flexible compliance and/or reporting requirements for small businesses:

The proposed rules were drafted to facilitate administration of the program for all postsecondary education institutions.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

TSAC worked diligently with key postsecondary education institution personnel to ensure that proposed compliance and/or reporting requirements can be practically applied by institutions administering the program.

5. Consolidation or simplification of compliance or reporting requirements:

The proposed rules were drafted to ensure solid, easily interpreted, compliance and reporting requirements.

6. Performance standards for small businesses:

TSAC expects all education institutions engaged in the administration of the Helping Heroes Grant Program to comply with all applicable rules.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs:

The proposed rules do not contain any foreseeable inhibitors to small business entrepreneurial activities.

Furthermore, the statute requires that the agency, as part of the rulemaking process for any proposed rule that may have an impact on small businesses, shall prepare an economic impact statement as an addendum for each rule. The statement shall include the following: the type or types of small businesses and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rules; 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; a statement of the probable effect on impacted small businesses and consumers; a 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 businesses; a comparison of the proposed rule with any federal or state counterparts; and analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Economic Impact Statement

1. Types of small businesses directly affected:

Independent postsecondary education institutions that employ fifty (50) or fewer full-time employees that have students in attendance receiving this grant program.

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

There are no significant changes in reporting, recordkeeping, or other administrative costs that will result from the promulgation of these proposed rules.

3. Probable effect on small businesses:

The proposed rules were drafted to facilitate administration of the program for all postsecondary institutions and should have a positive effect on the independent postsecondary institutions employing fifty (50) or fewer full-time employees.

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

As these proposed rules present no foreseeable cost to small businesses, there is no alternative

method to propose.

5. Comparison with federal and state counterparts:

There are no federal or state counterparts to the issues addressed by these proposed rules.

6. Effect of possible exemption of small businesses:

There will be no exemptions created by these proposed rules.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments."

The rules for the Tennessee Student Assistance Program Chapter 1640-01-22, as amended, shall have no projected impact on local governments.

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Sequence Number: 06-18-13
Rule ID(s): 5495
File Date: 6/20/13
Effective Date: 11/28/13

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:	Tennessee Student Assistance Corporation
Division:	Higher Education
Contact Person:	Peter Abernathy
Address:	Suite 1510, Parkway Towers, 404 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615.532.6065
Email:	peter.abernathy@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
1640-01-22	Helping Heroes Grant Program
Rule Number	Rule Title
1640-01-22-.01	Definitions
1640-01-22-.02	Scholarship Award Amounts and Classifications
1640-01-22-.03	Application Process
1640-01-22-.04	General Eligibility
1640-01-22-.06	Award Made in Error
1640-01-22-.07	Refund Policy
1640-01-22-.10	Transient Students
1640-01-22-.11	Appeal and Exception Process

**RULES
OF
TENNESSEE STUDENT ASSISTANCE CORPORATION**

**CHAPTER 1640-01-22
HELPING HEROES GRANT PROGRAM**

TABLE OF CONTENTS

1640-01-22-.01	Definitions	1640-01-22-.07	Refund Policy
1640-01-22-.02	Scholarship Award Amounts and Classifications	1640-01-22-.08	Calculation of Postsecondary Cumulative Grade Point Average
1640-01-22-.03	Application Process	1640-01-22-.09	Transfer Students
1640-01-22-.04	General Eligibility	1640-01-22-.10	Transient Students
1640-01-22-.05	Retention of Awards – General Requirements	1640-01-22-.11	Appeal and Exception Process
1640-01-22-.06	Award Made in Error		

1640-01-22-.01 DEFINITIONS.

- (1) **Active Military Service of the United States:** The term is defined in T.C.A. § 58-1-102
- ~~(1) Corporation: Tennessee Student Assistance Corporation (TSAC):~~
- (2) **Degree:** A two-year associate degree or four-year baccalaureate degree conferred on students by a postsecondary educational institution upon completion of a unified program of study at the undergraduate level.
- (3) **Eligible Postsecondary Institution:** The term is defined in T.C.A. § 49-4-902.
- (4) **Full-time student:** The term is defined in T.C.A. § 49-4-902.
- (5) **Non-failing grade:** Any passing letter grade earned by a student as determined by the institution.
- (6) **Part-time student:** The term is defined in T.C.A. § 49-4-902.
- (7) **Semester:** The term is defined in T.C.A. § 49-4-902.
- (8) **Semester hours:** The term is defined in T.C.A. § 49-4-902.
- (9) **Successful completion of a course:** The term is defined in T.C.A. § 49-4-902.
- (10) **Tennessee National Guard:** The term is defined in T.C.A. § 49-4-926(b)(3).
- (11) **TSAC: Tennessee Student Assistance Corporation.**
- ~~(11) Veteran: A former member of the armed forces of the United States, or a former member of a reserve or Tennessee National Guard unit who was called into active military service of the United States. The term is as defined in T.C.A. § 58-1-10249-4-938(b)(2).~~

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.02 SCHOLARSHIP AWARD AMOUNTS AND CLASSIFICATIONS.

(Rule 1640-01-22-.02, continued)

- (1) The Helping Heroes Grant is intended to provide financial awards to offset costs associated with pursuing postsecondary education. ~~The Corporation~~TSAC shall award ~~no more than three hundred seventy-five (375) eligible students per semester the grant~~ on a first come, first-served basis not to exceed seven hundred fifty thousand dollars (\$750,000) per ~~academic~~ year.
- (2) A Helping Heroes Grant awarded to a student shall be one thousand dollars (\$1,000) per semester in which the student successfully completes twelve (12) or more semester hours, with a maximum of two (2) full semesters per academic year. Award amounts for the Helping Heroes Grant for years subsequent to the 2008-2009 academic year shall be determined in accordance with T.C.A. § 4-51-111 and shall be set in the General Appropriations Act.
 - (a) The full amount of the grant is awarded to a student who successfully completes twelve (12) or more semester hours.
 - (b) One-half (1/2) of the full amount of the grant is awarded to a student who successfully completes six (6) to eleven (11) semester hours.
 - (c) A student successfully completing fewer than six (6) semester hours shall not be eligible for the grant, but may subsequently be eligible for the grant in a semester in which the student successfully completes at least six (6) semester hours; provided, that the student meets all other eligibility requirements during that semester.
- (3) In the event that net lottery proceeds are insufficient to fully fund the Helping Heroes Grant, ~~the Corporation~~TSAC shall determine the appropriate manner in which the awards shall be reduced.
- (4) Receipt of student financial aid from sources other than the Helping Heroes Grant that are applied to educational expenses will not operate to reduce the student's grant as long as the student's total aid does not exceed the total cost of attendance. In the event that a student's total aid exceeds the cost of attendance, the eligible postsecondary institution shall, to the extent it does not violate applicable federal regulations, use its institutional policy in reducing the student's total aid package.
- (5) The receipt of a Helping Heroes Grant is contingent upon admission and enrollment at an eligible postsecondary institution. Qualifying for this grant does not guarantee admission to an eligible postsecondary institution.

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.03 APPLICATION PROCESS.

- (1) The Helping Heroes Grant application shall be the means by which eligible students apply or reapply for the grant after their initial year of eligibility. The Helping Heroes Grant application must be submitted to TSAC as directed on the application.
- (2) ~~The Corporation~~TSAC must receive the application on or before September 1 for fall enrollment and February 1 for spring enrollment and ~~May 1~~ for summer enrollment in determining awards for that academic year. It shall be the responsibility of the student to ensure that the application is submitted and received by the above deadlines.

(Rule 1640-01-22-.03, continued)

Authority: T.C.A. §§ 49-4-201, **49-4-204**, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.04 GENERAL ELIGIBILITY.

- (1) To be eligible for a Helping Heroes Grant a student shall:
 - (a) Be a Tennessee citizen; and
 - (b) Be a Tennessee resident, as defined by *Tenn. Comp. R. and Regs. Chapter Rule 0240-02-02, Classifying Students In-State and Out-of-State*, as promulgated by the Board of Regents, for one (1) year immediately preceding the application deadline date; and
 - (c) Make application for a Helping Heroes Grant by submitting the application as required by Rule 1640-01-22-.03 in which the student successfully completes six (6) or more semester hours; and
 - (d) Be admitted to an eligible postsecondary institution seeking an associate or baccalaureate degree; and
 - (e) Have received an honorable discharge **or remain in good standing while serving in an active reserve unit**; and
 - (f) Have been awarded the Iraq Campaign Medal, Afghanistan Campaign Medal, or Global War on Terrorism Expeditionary Medal on or after September 1, 2001; and
 - (g) Be in compliance with federal drug-free rules and laws for receiving financial assistance; and
 - (h) Meet each qualification relating to the grant and applicable to the student; and
 - (i) Not be in default on a federal Title IV educational loan or Tennessee educational loan; and
 - (j) Not owe a refund on a federal Title IV student financial aid program or a Tennessee student financial aid program; and
 - (k) Not be incarcerated; and
 - (l) Have not received a baccalaureate degree; and
 - (m) Not be required to meet any academic standard at the time of enrollment in an eligible postsecondary institution.

Authority: T.C.A. §§ 49-4-201, **49-4-204**, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.05 RETENTION OF AWARD – GENERAL REQUIREMENTS.

- (1) To retain a Helping Heroes Grant award authorized by this chapter, a student at an eligible postsecondary institution shall continue to meet all applicable requirements for the

(Rule 1640-01-22-.05, continued)

scholarship pursuant to 1640-01-22-.04 and shall reapply by completing the Helping Heroes Grant application pursuant to Rule 1640-01-22-.03 for each academic year.

- (2) A student at an eligible postsecondary institution shall be enrolled in at least six (6) or more hours leading to an associate or baccalaureate degree and shall receive a non-failing grade as the final grade for each course.
- (3) A student may receive a Helping Heroes Grant until the first of the following terminating event occurs:
 - (a) Student earns a baccalaureate degree; or
 - (b) Eighth anniversary of the veteran's honorable discharge from military service; or
 - (c) Student receives the grant for a maximum of the equivalent of eight (8) full semesters. Receipt of the award as a full-time student shall count as one (1) semester and one-half (1/2) semester as a part-time student.
- (4) If the eighth anniversary of the veteran's honorable discharge occurs after the semester begins, the veteran will be eligible to receive the award if all eligibility requirements are met.

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.06 AWARD MADE IN ERROR.

- (1) If a student receives a Helping Heroes Grant and it is later determined that the award or some portion of the award was made in error, the student or the postsecondary institution may be required to repay the amount awarded in error.
- (2) If TSAC determines that the error was through no fault of the student, the student will not be required to repay the amount of the payment made in error.
- (3) Repayment from the student will be required if TSAC determines that fraud was committed or the error was through fault of the student. When repayment is required, the student may not receive additional student aid from ~~the Corporation~~TSAC until repayment is made.
- (4) Repayment from the postsecondary institution will be required if TSAC determines that the error was through the fault of the postsecondary institution.

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.07 REFUND POLICY.

- (1) If a recipient of a Helping Heroes Grant fails to complete a semester for any reason, the eligible postsecondary institution shall apply its refund policy to determine whether a refund may be required and/or funds returned to ~~the Corporation~~TSAC. The eligible postsecondary institution shall provide the student with a notice indicating the amount to be returned to the student or the amount to be refunded to ~~the Corporation~~TSAC. Additionally, the eligible

(Rule 1640-01-22-.07, continued)

postsecondary institution shall notify ~~the Corporation~~TSAC of the chargeback, which shall be noted on the student's record. The eligible postsecondary institution shall be responsible for obtaining repayment from the student. The student shall be ineligible for student aid from ~~the Corporation~~TSAC until the refund is paid.

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.08 CALCULATION OF POSTSECONDARY CUMULATIVE GRADE POINT AVERAGE.

- (1) The postsecondary cumulative grade point average used to determine eligibility for a renewal of a Helping Heroes Grant must be calculated by the institution the student is attending, utilizing its institutional grading policy.
- (2) All credit hours attempted as a recipient of this grant must be included in the calculation of the postsecondary cumulative grade point average, regardless of whether the receiving institution will apply the credit hours toward the student's degree requirements.
- (3) Credit hours earned by examination are not eligible for payment with this grant and shall not be included in the postsecondary cumulative grade point average.
- (4) Remedial and developmental studies and independent studies courses are eligible for payment with this grant and shall be included in the calculation of the postsecondary cumulative grade point average.
- (5) Courses in which a student enrolls as an audit student for which no college credit will be received cannot be paid with this grant.
- (6) Continuing education courses are not eligible for payment with the Helping Heroes Grant and shall not be included in the postsecondary cumulative grade point average.
- (7) A student who obtains a grade change shall notify the financial aid office within thirty (30) calendar days of the grade change and request reinstatement of his or her award on a form developed by the institution for this purpose. If the grade change makes the student eligible for a Helping Heroes Grant, the student can be awarded the grant retroactively in the current award year. If the grade change affects the student's eligibility from the previous award year, the grant may be adjusted in the current award year. The eligible postsecondary institution shall make necessary reductions in the student's financial aid package if the reinstatement of a Helping Heroes Grant results in either an over-award of need based aid or exceeds the institution's cost of attendance for any semester. If the student's application for reinstatement is denied, he or she may appeal the decision in accordance with Rule 1640-01-22-.11.
- (8) A student enrolled at an eligible postsecondary institution shall qualify for a Helping Heroes Grant for distance education courses if all other eligibility requirements are met. Students may take courses through more than one eligible postsecondary institution during the same semester. Payment for the distance education courses shall be made in the same manner as transient students as provided in Rule 1640-01-22-.10.
- (9) A student enrolled in a matriculating status at an eligible postsecondary institution may qualify for a Helping Heroes Grant while participating in an internship or co-op program if the student receives college credit from the internship or co-op experience and must pay tuition and fees. The semester hours shall be included in the postsecondary cumulative grade point average.

(Rule 1640-01-22-.08, continued)

- (10) A student enrolled in a matriculating status at an eligible postsecondary institution may qualify for a Helping Heroes Grant while participating in an alternative study or study abroad program if all other eligibility requirements are met. The eligible postsecondary institution which is the student's home institution must approve the alternative study or study abroad program for credit toward the student's degree and the number of hours that will be applied toward the degree prior to the student's departure.
- (11) Courses that appear on a student's transcript as an "incomplete" shall be considered credit hours attempted. The student's Helping Heroes Grant eligibility, however, shall be determined by excluding the credit hours attributable to the course for which an "incomplete" has been assigned from the cumulative grade point average calculation.
 - (a) If the student fails to retain eligibility for a Helping Heroes Grant as a result of the calculation, but later becomes eligible when the grade for the "incomplete" course is reported, the student is eligible to receive the grant retroactively within the award year and shall retain eligibility. Retroactive grants for previous award years shall be added to the current award year. The eligible postsecondary institution shall, however, make necessary reductions in the student's financial aid package if the reinstatement of a Helping Heroes Grant results in either an over-award of need based aid or exceeds the institution's cost of attendance for any semester. It shall be the responsibility of the student to notify the financial aid office at the eligible postsecondary institution that a grade has been awarded and request that the grant be reinstated. Each eligible postsecondary institution shall develop a standard form for use by students to comply with this provision. If the student's application for reinstatement is denied, he or she may appeal the decision in accordance with Rule 1640-01-22-.11.
 - (b) If the student retains eligibility for a grant as a result of the calculation, but later becomes ineligible when the grade for the "incomplete" course is reported as a failing grade, then the student shall be ineligible for all grant awards. Additionally, the student shall reimburse the institution for the grant awards received in the interim.
- (12) If the student is otherwise eligible to receive a grant, but does not receive grant funding, or grant funding is reduced because his or her cost of attendance is covered by other aid, the student shall remain eligible for the grant if all other academic and non-academic requirements continue to be met.

Authority: T.C.A. §§ 49-4-201, **49-4-204**, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.09 TRANSFER STUDENTS.

- (1) A student receiving a Helping Heroes Grant shall continue receiving the grant at another eligible postsecondary institution so long as continuation requirements are met and the student is enrolled in at least six (6) semester hours.

Authority: T.C.A. §§ 49-4-201, **49-4-204**, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.10 TRANSIENT STUDENTS.

(Rule 1640-01-22-.10, continued)

- (1) A transient student is eligible to receive a Helping Heroes Grant if all other eligibility requirements are met and if both the home and host institutions are eligible postsecondary institutions. The home institution shall award the grant to the transient student based on certification of eligibility from the host institution. The home institution shall certify to ~~the Corporation~~TSAC that the student is eligible for the grant. Each eligible postsecondary institution shall develop a process to effectuate each provision of this rule and shall notify its students of the process and the availability of the necessary forms to comply with the requirements. At the end of the semester, the host institution shall provide the student's home institution with all information necessary for the home institution to determine continued grant eligibility.

Authority: T.C.A. §§ 49-4-201, ~~49-4-204~~, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

1640-01-22-.11 APPEAL AND EXCEPTION PROCESS.

- (1) Each eligible postsecondary institution shall establish an Institutional Review Panel (IRP) for the purposes of rendering a decision to deny or revoke an applicant's Helping Heroes Grant. Each eligible postsecondary institution shall establish written procedures for an applicant or recipient to appeal a decision of an eligible postsecondary institution to deny or revoke a Helping Heroes Grant. These procedures shall include, but not be limited to, the establishment and composition of the IRP and the process and timelines for appeals to the IRP. Each eligible postsecondary institution shall also establish a process to ensure students applying for or receiving a grant are notified of the procedures to appeal the denial or revocation of the grant including the timeframe within which an appeal must be filed with the TELS Award Appeals Panel. No eligible postsecondary institution official rendering a decision to deny or revoke a grant shall participate in the appeal process for the same applicant or recipient. The IRP may award or reinstate the student's grant without a meeting and shall make such determination no later than fourteen (14) calendar days after an applicant or recipient properly files an appeal. If the IRP determines that a meeting is required, the IRP shall hear the appeal no later than fourteen (14) calendar days after an applicant or recipient properly files an appeal. Except where exigent circumstances exist, the IRP shall render a decision no later than seven (7) calendar days after meeting to consider an appeal. Such decision shall be reduced to writing and shall include a summary of the pertinent facts and issues and the panel's decision and reasons for the decision. The IRP shall provide a copy of the written decision to the appellant as soon as practicable. For the purposes of this rule, it will be presumed that the decision was delivered to the appellant two (2) calendar days after the decision was placed in the U.S. Postal Service addressed to the appellant's official mailing address according to the eligible postsecondary institution's records.
- (2) The TELS Award Appeals Panel shall be appointed by ~~the Corporation~~TSAC's Executive Director for the purpose of meeting to consider appeals from decisions rendered by the IRPs. No official of an eligible postsecondary institution shall sit as a member of the Appeals Panel where the denial or revocation being appealed involves such official's eligible postsecondary institution. A student seeking an appeal of a decision rendered by an IRP shall request an appeal, to include a written statement outlining the basis for the appeal as well as all pertinent information related to the appeal, with ~~the Corporation~~TSAC within forty-five (45) calendar days from the date that the decision was delivered to the student. A complete record of the institutional IRP ruling shall be provided to ~~the Corporation~~TSAC by the student. The Appeals Panel may award or reinstate the student's grant without a meeting. This decision shall be made no later than thirty (30) calendar days after an appeal is properly filed and the record from the IRP meeting is received. If the Appeals Panel determines that a meeting is required, the Appeals Panel shall consider the appeal no later than forty-five (45) calendar days after

(Rule 1640-01-22-.11, continued)

the appeal is properly filed, unless an extension is requested by the appellant and granted by the Appeals Panel. Except where exigent circumstances exist, the Appeals Panel shall render a decision no later than fourteen (14) calendar days after ruling on an appeal. Such decision shall be reduced to writing and shall include a summary of the pertinent facts and issues and the panel's decision. The Appeals Panel shall provide a copy of the written decision to the appellant and the appellant's home institution as soon as practicable. The Appeals Panel is the final administrative appeal.

- (3) The authority of the IRPs and the TELS Award Appeals Panel shall be strictly limited to consideration of appeals arising from eligibility determinations made by an eligible postsecondary institution or ~~the Corporation~~TSAC. Neither appeals panel shall have the authority to rule on the validity of any information provided to the eligible postsecondary institution or Corporation by another entity on which its decision to deny or revoke a Helping Heroes Grant was based, including, but not limited to grades from another eligible postsecondary institution. Additionally, neither appeals panel shall have the authority to consider requests for exceptions to the collegiate grade point average.

Authority: T.C.A. §§ 49-4-201, 49-4-204, 49-4-902, 49-4-924, and 49-4-938. **Administrative History:** Public necessity rule filed October 23, 2008; effective through April 6, 2009. Public necessity rule filed October 23, 2008, and effective through April 6, 2009, expired effective April 7, 2009 and reverted to its previous status. Original rule filed January 30, 2009; effective May 29, 2009.

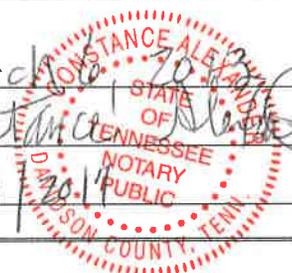
The vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Governor Haslam, by Mr. Mark Cate	X				
Dr. Richard Rhoda	X				
Dr. Claude Pressnell				X	
Mr. David H. Lillard, Jr., by Janice Cunningham	X				
Comptroller Justin P. Wilson, by Ms. Faye Weaver	X				
Commissioner Mark Emkes, by Cathy Pierce	X				
Commissioner Kevin Huffman, by Mr. Morgan Branch	X				
Chancellor John Morgan, by David Gregory	X				
Dr. Joe Dipietro, by Dr. Keith Carver	X				
Dr. J. Gary Adcox	X				
Dr. Dan Boone	X				
Mr. Lester McKenzie	X				
Mr. William Samuel Stuard, Jr.	X				
Mr. Will Pinkston				X	
Mr. Jeff Wilson	X				
Mr. John Alexander Peek	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Student Assistance Corporation Board of Directors on September 29, 2011, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 3.6.13
Signature: [Handwritten Signature]
Name of Officer: Dr. Richard G. Rhoda
Title of Officer: Executive Director, Tennessee Student Assistance Corp.

Subscribed and sworn to before me on: March 6, 2013
Notary Public Signature: [Handwritten Signature]
My commission expires on: 1/14/2014



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

[Handwritten Signature]
Robert E. Cooper, Jr.
Attorney General and Reporter

4-20-13
Date

Department of State Use Only

Filed with the Department of State on: 6/20/13

Effective on: 11/28/13

[Handwritten Signature]
Tre Hargett
Secretary of State



G.O.C. STAFF RULE ABSTRACT

<u>DEPARTMENT:</u>	Board of Communications Disorders and Sciences
<u>DIVISION:</u>	
<u>SUBJECT:</u>	Speech Pathology and Audiology
<u>STATUTORY AUTHORITY:</u>	Tennessee Code Annotated, Sections 63-17-103, 63-17-105, 63-17-116 and 63-17-128.
<u>EFFECTIVE DATES:</u>	September 26, 2013 through June 30, 2014
<u>FISCAL IMPACT:</u>	Minimal
<u>STAFF RULE ABSTRACT:</u>	<p>(1) This rule amendment clarifies the requirements for the reinstatement of an expired license of registration for speech language pathologists and audiologists.</p> <p>(2) This rule amendment revises the number of clinical fellows, speech language pathology assistants, and individuals that a certified speech language pathologist may supervise concurrently.</p> <p>(3) This rule amendment redefines the acceptable forms of multi-media coursework that may be taken by new speech language pathologists, audiologists, or speech language pathology assistants for continuing education credit.</p> <p>(4) This rule amendment clarifies the requirements for reactivating or reinstating an expired or retired license and registration for speech language pathologists and audiologists. It caps the number of continuing education hours required for reactivation and reinstatement at one hundred (100).</p> <p>(5) This rule amendment clarifies and revises the scope of practice and supervision of speech language pathology assistants.</p>

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.

PUBLIC HEARING COMMENTS

RULEMAKING HEARING

TENNESSEE BOARD OF COMMUNICATIONS DISORDERS AND SCIENCES

NOVEMBER 6, 2012

The rulemaking hearing for the Tennessee Board of Communications Disorders and Sciences was held on November 6, 2012 in the Department of Health Conference Center's Poplar Room on the First Floor of the Heritage Place Building in MetroCenter, Nashville, Tennessee.

The rulemaking hearing was attended members of the public. Oral comments by John Williams, Tennessee Association of Audiologists and Speech-Language Pathologists, James B. Hall, on behalf of Deborah L. Curlee Communication Consultants ("CCC"), and Deborah L. Hall, on behalf of CCC were received at the rulemaking hearing. Mr. Williams, Mr. Hall, and Mrs. Hall also submitted written comments.

Mr. Williams was opposed to the change of 1370-01-.12(1)(f)(3) which allows Audiologists and Speech-Language Pathologists to obtain all 15 hours of continuing education via multimedia sources because he claims licensees will have limited ability to interact with the provider of the continuing education seminar and because licensees will not have the same opportunities to network and interact with vendors who display new medical equipment. Mr. Williams was also concerned that the proposed rule language would dramatically expand the events and materials that qualify as multimedia. The Board considered this comment and made minor changes to the definitions of multimedia but declined to limit the number of continuing education hours that can come from multimedia sources.

Mr. and Mrs. Hall commented on the proposed changes to rule 1370-01-.14 pertaining to Speech-Language Pathology Assistants ("SLPA") and Supervision. Mr. and Mrs. Hall were primarily concerned that SLPAs would be allowed to perform duties that must be performed by a licensed Speech-Language Pathologist. Mr. and Mrs. Hall also asked that language be added requiring SLPAs to submit to the Board not only the name of their supervising Speech-Language Pathologist but the name of an alternate as well. The Board considered these comments and did require that a designated alternate be named and removed scope of practice language that encroached on duties reserved to Speech-Language Pathologists.

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.

Regulatory Flexibility Analysis

- (1) The proposed rule amendments do not overlap, duplicate, or conflict with other federal, state, or local government rules.
- (2) The proposed rule amendments exhibit clarity, conciseness, and lack of ambiguity.
- (3) The proposed rule amendments are not written with special consideration for flexible compliance and/or requirements because the Board of Communications Disorders and Sciences has, as its primary mission, the protection of the health, safety, and welfare of Tennesseans. However, the proposed rules are written with a goal of avoiding unduly onerous regulations.
- (4) The compliance requirements throughout the proposed rule amendments are as "user-friendly" as possible while still allowing the Board to achieve its mandated mission in regulating licensed Speech Language Pathologists, licensed Audiologists, and registered Speech Language Pathology Assistants. There is sufficient notice between the rulemaking hearing and the final promulgation of rules to allow individuals to come into compliance with the proposed rules.
- (5) The compliance requirements throughout the proposed rule amendments are as consolidated and simplified as possible while still allowing the Board to protect the health, safety, and welfare of Tennesseans.
- (6) The standards required in the proposed rule amendments are basic and do not necessitate the establishment of performance standards for small businesses.
- (7) There are no unnecessary entry barriers or other effects in the proposed rule amendments that would stifle entrepreneurial activity or curb innovation.

STATEMENT OF ECONOMIC IMPACT

Types of small businesses that will be directly affected by the proposed rules:

The proposed rule amendments will affect licensed audiologists, licensed speech language pathologists, registered speech language pathology assistants, applicants to become speech language pathology assistants, clinical fellows, continuing education course providers and small businesses that train and/or employ speech language pathology assistants.

Types of small businesses that will bear the cost of the proposed rules:

Any costs associated with the proposed rule amendments will be assessed upon licensed Audiologists, licensed Speech Language Pathologists, registered Speech Language Pathology Assistants, applicants to become Speech Language Pathology Assistants, Clinical Fellows, continuing education course providers and small businesses that train and/or employ speech language pathology assistants.

Types of small businesses that will directly benefit from the proposed rules:

The proposed rule amendments will benefit licensed Audiologists, licensed Speech Language Pathologists, registered Speech Language Pathology Assistants, applicants to become Speech Language Pathology Assistants, Clinical Fellows, continuing education course providers and small businesses that train and/or employ Speech Language Pathology Assistants. The proposed rule amendments will benefit affected individuals in the following manner: (1) by clarifying the licensure requirements for individuals whose licenses have expired; (2) clarifying the supervision guidelines for Supervising Licensees; (3) clarifying the continuing education requirement for new licensees and new registrants; (4) clarifying the education requirements for reactivation of a retired or expired license or registration; and (5) revising rule sections regarding Speech Language Pathology Assistants to clarify the scope of practice, education requirements, and supervision.

Description of how small businesses will be adversely impacted by the proposed rules:

The proposed rule amendments may affect continuing education course providers to the extent that there may be a decrease in course participation given the exemption to new licensees who have completed education and training during the twelve (12) months preceding licensure.

Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:

The Department of Health, Board of Communications Disorders and Sciences does not believe there are less burdensome alternatives to the proposed rule amendments.

Comparison of the proposed rule with federal or state counterparts:

Federal: The Board of Communications Disorders and Sciences is not aware of any federal counterparts.

State: The proposed rule amendments are generally consistent with similar rules promulgated by similar boards in Kentucky, North Carolina, Alabama, and Arkansas.

Impact on Local Governments

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

The proposed rule is not expected to have an impact on local government.

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For Department of State Use Only

Sequence Number: 06-30-13
Rule ID(s): 5502
File Date: 6/28/13
Effective Date: 9/26/13

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:	Board of Communications Disorders and Sciences
Division:	
Contact Person:	Alex Munderloh
Address:	Office of General Counsel 220 Athens Way, Suite 210 Nashville, Tennessee
Zip:	37243
Phone:	615-741-1611
Email:	Alex.Munderloh@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
1370-01	Rules for Speech Pathology and Audiology
Rule Number	Rule Title
1370-01-.09	Renewal of License or Registration
1370-01-.10	Clinical Fellowships, Clinical Externs, and Supervision
1370-01-.12	Continuing Education
1370-01-.14	Speech Language Pathology Assistants and Supervision

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.07, continued)

- (b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§4-5-201, et seq.) to contest the denial and the procedure necessary to accomplish that action.
 - (c) An applicant has a right to a contested case hearing only if the licensure denial was based on subjective or discretionary criteria.
- (7) If the Board finds that it has erred in the issuance of a license, the Board will give written notice by certified mail, return receipt requested, of intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to Rule 1370-01-.07(6)(b).

Authority: T.C.A. §§4-5-202, 4-5-204, 63-1-142, 63-17-105, 63-17-110 through 63-17-114(6), 63-17-115, and 63-17-117. **Administrative History:** Original rule filed March 11, 1991; effective April 25, 1991. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed August 3, 2005; effective October 17, 2005.

1370-01-.08 EXAMINATIONS. All persons intending to apply for licensure as a Speech Language Pathologist or Audiologist in Tennessee must successfully complete an examination pursuant to this Rule.

- (1) The examination must be completed prior to application for licensure.
- (2) Evidence of successful completion must be submitted by the examining agency directly to the Board's Administrative Office as part of the application process pursuant to Rule 1370-01-.05.
- (3) The Board adopts the Specialty Area Tests in Speech-Language Pathology and Audiology of the Professional Assessments for Beginning Teachers (Praxis Test), or its successor examination, as its licensure examination. Successful completion of examination is a prerequisite to licensure pursuant to Rule 1370-01-.05.
- (4) The Board adopts the ASHA determination as to the passing score on the Praxis Test or successor examination.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-110, 63-17-111 **Administrative History:** Original rule filed March 11, 1991; effective April 25, 1991. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 26, 2002; effective July 10, 2002. Amendment filed September 11, 2006; effective November 25, 2006.

1370-01-.09 RENEWAL OF LICENSE OR REGISTRATION.

- (1) Renewal Application.
 - (a) The due date for license renewal is the expiration date indicated on the renewal certificate.
 - (b) Methods of Renewal
 - 1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanyttime.org

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.09, continued)

2. Paper Renewals - For individuals who have not renewed their license or registration online via the Internet, a renewal application form will be mailed to each individual licensed or registered by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee or registrant from the responsibility of meeting all requirements for renewal.
- (c) To be eligible for license or registration renewal, an individual must submit to the Board's Administrative Office on or before the due date for renewal all of the following:
1. A completed Renewal Application form;
 2. The renewal and state regulatory fees as provided in Rule 1370-01-.06; and
 3. Attestation on the Renewal Application form to indicate and certify completion of continuing education requirements pursuant to Rule 1370-01-.12.
- (d) Licensees and registrants who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses or registrations processed pursuant to rule 1200-10-01-.10.
- (2) Exemption from Licensure or Registration Renewal - A licensee or registrant who does not plan to practice in Tennessee and who therefore does not intend to use the title 'speech language pathologist' or 'audiologist' or any title which conveys to the public that he is currently licensed or registered by this Board may apply to convert an active license or registration to retired, or inactive, status. These licensees must comply with the requirements of Rule 1370-01-.11.
- (3) Reinstatement of an Expired License or Registration.
- (a) Licensees and registrants who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licensure processed pursuant to Rule 1200-10-01-.10.
- (b) ~~Reinstatement of a license or registration that has expired for less than five (5) years may be accomplished upon meeting the following conditions:~~
- ~~1. Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1370-01-.06; and~~
 - ~~2. Payment of the Late Renewal fee, pursuant to Rule 1370-01-.06; and~~
 - ~~3. Provide documentation of successfully completing continuing education requirements for every year the license or registration was expired, pursuant to Rule 1370-01-.12.~~
 - ~~4. License and registration reinstatement applications hereunder shall be treated as license and registration applications, and review and decisions shall be governed by Rule 1370-01-.07.~~
- (c) ~~Licenses that have expired for more than five (5) years may not be reinstated, reissued, or restored. The Board will consider an application for a new license if such application is made pursuant to this chapter of rules and the Licensure Act for Communication Disorders and Sciences, T.C.A. §63-17-101, et seq.~~

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.09, continued)

(b) Licensees and registrants who wish to reinstate a license or registration that has been expired for five (5) years or less shall meet the following conditions:

1. Payment of all past due renewal fees and state regulatory fees, pursuant to Rule 1370-01-.06; and
2. Payment of the late renewal fee, pursuant to Rule 1370-01-.06; and
3. Provide documentation of successfully completing continuing education requirements for every year the license or registration was expired, pursuant to Rule 1370-01-.12.
4. License and registration reinstatement applications hereunder shall be treated as license and registration applications, and review and decisions shall be governed by Rule 1370-01-.07.

(c) Licensees and registrants who wish to reinstate a license or registration that has been expired for more than five (5) years shall be required to reapply for licensure in accordance with applicable laws and rules of the Board. As part of the application, the licensee or registrant shall include documentation of current ASHA certification or equivalent and documentation of having successfully completed continuing education requirements for each year the license or registration was expired pursuant to Rule 1370-01-.12.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-116 and 63-17-128 **Administrative History:** Original rule filed September 18, 1991; effective November 2, 1991. Repeal and new rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 26, 2002; effective July 10, 2002. Amendment filed July 22, 2003; effective October 5, 2003. Amendment filed September 11, 2006; effective November 25, 2006.

1370-01-.10 CLINICAL FELLOWSHIPS, CLINICAL EXTERNS, AND SUPERVISION.

- (1) Clinical Fellows must work under the supervision of a licensed or ASHA certified Speech Language Pathologist ("supervising licensee").
 - (a) The clinical fellowship experience shall include no less than thirty-six (36) supervisory activities in the following combination:
 1. Eighteen (18) direct (on-site) observations, with one (1) hour equaling one (1) on-site observation.
 2. Eighteen (18) monitored activities which may, for example, include telephone conferences, tape reviews, and record reviews.
 - (b) Each month of the clinical fellowship shall include two (2) on-site observations and two (2) other monitored activities.
- (2) Clinical Fellows: Procedures for Registration
 - (a) An applicant for registration as a Clinical Fellow shall cause a graduate transcript to be submitted directly from the educational institution to the Board's Administrative Office. The transcript must show that graduation with at least a master's or doctorate level degree has been completed and must carry the official seal of the institution.
 - (b) An applicant for registration as a Clinical Fellow shall have successfully completed a minimum of four hundred (400) clock hours of supervised clinical experience

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.10, continued)

(practicum) with individuals having a variety of communications disorders, as required by ASHA. The experience shall have been obtained through an accredited institution. The applicant shall have a letter transmitted directly from the authorized individual at the accredited institution to the Board's Administrative office attesting to the standards of the practicum and the applicant's successful completion.

- (c) All supervising licensees must register any and all Clinical Fellows working under their supervision with the Board on a Registration form to be provided by the Board at the request of the supervising licensee. Registration must be made by the supervising licensee before or within ten (10) days of retaining each Clinical Fellow.

(3) Clinical Fellows: Period of Effectiveness

- (a) Persons with doctoral degrees or doctoral degree candidates - Clinical fellowships are effective for a period of no less than nine (9) months and no more than four (4) years.
- (b) Persons with master's degrees - Clinical fellowships are effective for a period of no less than nine (9) months and no more than one (1) year.
 - 1. Notwithstanding the provisions of subparagraph (b), the clinical fellowship's period of effectiveness for applicants for licensure who are awaiting national certification and subsequent Board review of their application may be extended for a period not to exceed three (3) additional months. Such extension will cease to be effective if national certification or Board licensure is denied. At all times while awaiting national certification results and until licensure is received, clinical fellows shall practice only under supervision as set forth in this rule.
 - 2. Application for licensure or re-registration by the supervising licensee for an additional clinical fellowship should be made thirty (30) days before the expiration of the clinical fellowship.
- (c) In the case of extenuating circumstances, a supervising licensee may request an application for re-registration to extend the clinical fellowship registration. The Board or its designee will determine if an extension will be granted.

~~(4) Clinical Fellows: Supervision Limitations~~

- ~~(a) Supervising licensees shall supervise no more than three (3) Clinical Fellows concurrently.~~
- ~~(b) Supervising licensees shall supervise no more than two (2) Speech Language Pathology Assistants concurrently.~~
- ~~(c) Supervising licensees shall supervise no more than three (3) individuals concurrently.~~
- ~~(d) A licensee who supervises three (3) individuals may provide alternate supervision to one (1) additional Speech Language Pathology Assistant or Clinical Fellow.~~
- ~~(e) A licensee who supervises two (2) individuals may provide alternate supervision to two (2) additional Speech Language Pathology Assistants or Clinical Fellows.~~
- ~~(f) A licensee who supervises one (1) individual may provide alternate supervision to three (3) additional Speech Language Pathology Assistants or Clinical Fellows.~~

(4) Clinical Fellows: Supervision Limitations.

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.10, continued)

- (a) Supervising licensees shall supervise no more than three (3) individuals concurrently.
 - (b) Supervising licensees shall supervise no more than two (2) Speech Language Pathology Assistants concurrently.
 - (c) Supervising licensees shall supervise no more than three (3) Clinical Fellows concurrently.
- (5) Clinical Externs must work under the supervision of a licensed, ASHA certified or ABA certified Audiologist (supervising licensee).
- (6) Clinical Externs: Procedures for Registration
- (a) An applicant for registration as a Clinical Extern shall have a letter transmitted directly from the authorized individual at the accredited institution to the board administrator verifying that he or she has successfully completed sufficient academic course work to engage in outside supervised clinical practice.
 - (b) An applicant for registration as a Clinical Extern shall have successfully completed a minimum of four hundred (400) clock hours of supervised clinical experience (practicum) with individuals having a variety of communications disorders. The experience shall have been obtained through an accredited institution. The applicant shall have a letter transmitted directly from the authorized individual at the accredited institution to the Board's Administrative office attesting to the standards of the practicum and the applicant's successful completion.
 - (c) All supervising licensees must register any and all Clinical Externs working under their supervision with the Board on a registration form to be provided by the Board at the request of the supervising licensee. Registration must be made by the supervising licensee prior to the start of the externship.
- (7) Clinical Externs: Period of effectiveness
- (a) Registration of a Clinical Extern is effective for a period of fifteen (15) continuous months, beginning with the month after the month in which the registration is made.
 - (b) The length of the externship is set by the accredited institution.
 - (c) Notwithstanding the provisions of subparagraph (a), the clinical externship's period of effectiveness may be extended for a period not to exceed four (4) additional months for applicants for licensure who are awaiting national certification and subsequent Board review of their application. Such extension will cease to be effective if national certification or Board licensure is denied. At all times while awaiting national certification results and until licensure is received, clinical externs shall practice only under supervision as set forth in this rule.
 - (d) In the case of extenuating circumstances, a supervising licensee may request an application for re-registration to extend the clinical externship registration. The Board or its designee will determine if an extension will be granted.
- (8) Clinical Externs: Supervision Limitations. Supervising licensees shall concurrently supervise no more than two (2) Clinical Externs.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-103, 63-17-105, 63-17-110, and 63-17-114. **Administrative History:** Original rule filed December 18, 1995; effective March 1, 1996. Repeal and new rule filed

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.10, continued)

January 31, 2000; effective April 15, 2000. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed June 22, 2004; effective September 5, 2004. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed September 11, 2006; effective November 25, 2006. Amendment filed April 6, 2010; effective July 5, 2010. Amendment filed September 14, 2010; effective December 13, 2010.

1370-01-.11 RETIREMENT AND REACTIVATION OF LICENSE OR REGISTRATION.

- (1) (a) A licensee who holds a current license and does not intend to practice as a Speech Language Pathologist or Audiologist or intends to obtain an Inactive-Pro Bono Services license may apply to convert an active license to an Inactive-Retired status. Such licensee who holds a retired license may not practice and will not be required to pay the renewal fee
- (b) A registrant who holds a current registration and does not intend to practice as a Speech Language Pathology Assistant may apply to convert an active registration to an Inactive-Retired status. Such registrant who holds a retired registration may not practice and will not be required to pay the renewal fee.
- (2) A person who holds an active license or registration may apply for retired status in the following manner:
 - (a) Obtain, complete and submit to the Board's Administrative Office an Affidavit of Retirement form; and
 - (b) Submit any documentation which may be required by the form to the Board's Administrative Office.
- (3) A licensee or registrant who holds a retired license may apply to reactivate his license in the following manner:
 - (a) Submit a written request for licensure or registration reactivation to the Board's Administrative Office;
 - (b) Pay the licensure or registration renewal fee and state regulatory fee as provided in Rule 1370-01-.06; and
 - (c) Provide documentation of successfully completing continuing education requirements pursuant to Rule 1370-01-.12.
- (4) License and registration reactivation applications shall be treated as licensure applications and review decisions shall be governed by Rule 1370-01-.07.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-116, 63-17-124 and 63-17-128 **Administrative History:** Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed April 26, 2002; effective July 10, 2002. Amendment filed September 11, 2006; effective November 25, 2006.

1370-01-.12 CONTINUING EDUCATION. All Speech Language Pathologists, Audiologists, and Speech Language Pathology Assistants must comply with the following continuing education rules as a prerequisite to licensure and registration renewal.

- (1) Continuing Education - Hours Required
 - (a) All Speech Language Pathologists and Audiologists must complete a minimum of ten (10) hours of continuing education during each calendar year.

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.12, continued)

1. Five (5) hours of the ten (10) hour requirement must have been obtained in the licensee's area of practice (Speech Language Pathology or Audiology); and
 2. Five (5) hours of the ten (10) hour requirement may regard either Speech Language Pathology or Audiology.
 3. ~~For new licensees, submitting proof of successful completion during the twelve (12) months preceding licensure of all education and training requirements required for licensure in Tennessee, pursuant to Rule 1370-01-.04, shall be considered proof of sufficient preparatory education to constitute continuing education credit for the initial period of licensure.~~
 3. For new licensees, proof of successful completion of all education and training requirements required for licensure in Tennessee, pursuant to Rule 1370-01-.04, which have been completed during the twelve (12) months preceding licensure, shall constitute continuing education credit for the initial period of licensure.
- (b) ~~All Speech Language Pathology Assistants must complete a minimum of five (5) hours of continuing education during each calendar year. For new registrants, submitting proof of successful completion during the twelve (12) months preceding registration of (all education and training requirements required for registration in Tennessee, pursuant to Rule 1370-01-.14, shall be considered proof of sufficient preparatory education to constitute continuing education credit for the initial period of registration~~
- (b) All Speech Language Pathology Assistants must complete a minimum of five (5) hours of continuing education during each calendar year. For new registrants, proof of successful completion of all education and training requirements required for registration in Tennessee, pursuant to Rule 1370-01-.14, which have been completed during the twelve (12) months preceding registration, shall constitute continuing education credit for the initial period of registration.
- (c) The Board does not pre-approve continuing education programs. It is the responsibility of the licensee or registrant, using his/her professional judgment, to determine whether or not the continuing education course is applicable and appropriate and meets the guidelines specified in this rule. Continuing education credit will not be allowed for the following
1. Regular work activities, administrative staff meetings, case staffing/reporting, etc.
 2. Membership or holding office in or participation on boards or committees, or business meetings of professional organizations.
 3. Independent unstructured, or self-structured, learning.
 4. Training specifically related to policies and procedures of an agency.
 5. Seminars, conferences or courses not directly related to Speech Language Pathology or Audiology (i.e. computers, finance, business management, etc.) or inconsistent with the requirements of subparagraph (a).
- (d) Persons who hold dual licenses (Speech Language Pathology and Audiology) must complete a minimum of twenty (20) hours of continuing education during each calendar year. The hours must be distributed equally between each specialty.

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.12, continued)

- (e) For purposes of these Rules, one-tenth (0.1) Continuing Education Unit (CEU), as defined by ASHA and other CE course providers, is equivalent to sixty (60) minutes or one (1) hour of continuing education.
- (f) Multi-Media - With successful completion of a written post-experience examination to evaluate material retention, multi-media courses may be taken for continuing education credit.

~~1. For Speech Language Pathologists and Audiologists, a maximum of five (5) hours of the ten (10) hours required in subparagraph (a) may be granted for multi-media courses during each calendar year.~~

1. For Speech Language Pathologists and Audiologists, all of the hours required in subparagraph (a) may be granted for multi-media courses during each calendar year.

2. For Speech Language Pathology Assistants, all of the hours required in subparagraph (b) may be granted for multi-media courses during each calendar year.

~~3. Multi-Media courses may include courses utilizing:~~

- ~~(i) The Internet~~
- ~~(ii) Closed circuit television~~
- ~~(iii) Satellite broadcasts~~
- ~~(iv) Correspondence courses~~
- ~~(v) Videotapes~~
- ~~(vi) CD-ROM~~
- ~~(vii) DVD~~
- ~~(viii) Teleconferencing~~
- ~~(ix) Videoconferencing~~
- ~~(x) Distance learning~~

3. Multi-Media courses may include courses utilizing:

(i) Group: Synchronous, live event. Instruction requires the simultaneous participation of all students and instructors in real time. Learners interact with the learning materials and the instructor at a specific location and time. Examples include but are not limited to workshops, seminars, symposium, webinar/videoconference, journal group, grand rounds, conventions, and conferences.

(ii) Individual: Asynchronous. Learners choose their own instructional time frame and location and interact with the learning materials and instructor according to their own schedules. Examples include but are not limited to video recordings, correspondence courses, audio recordings, programmed

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.12, continued)

study, computer-assisted learning, and reading peer review journals/newsletters

(iii) Blended: Combines elements of both group and individual learning experiences. These may be distance learning/online as well as face-to-face/in person. These courses might have prerequisite reading, videotaping/case study viewing that must be completed prior to, during, or after the face-to-face/in person portion. Examples include but are not limited to live webinar that has required reading/case study review for which the participant will earn credit for successfully completing prior to, during, or after the live segment.

(iv) Independent Study: A learning event proposed by the learner and reviewed, monitored and approved by a Board approved independent study provider.

- (g) The Board, in cases of documented illness, disability, other undue hardship or retirement, may
1. waive the continuing education requirements; or
 2. extend the deadline to complete continuing education requirements.
- (h) To be considered for a waiver of continuing education requirements, or for an extension of the deadline to complete the continuing education requirements, a licensee or registrant must request such in writing with supporting documentation before the end of the calendar year in which the continuing education requirements were not met.

(2) Documentation - Proof of Compliance.

- (a) Each licensee and registrant must retain documentation of attendance and completion of all continuing education. If asked by the Board for inspection and/or verification purposes, the licensee or registrant must produce one (1) of the following:
1. Verification of continuing education by evidencing certificates which verify attendance at continuing education program(s); or
 2. An original letter on official stationery from the continuing education's program's sponsor verifying the continuing education and specifying date, hours of actual attendance, program title, licensee or registrant name and number.
- (b) Each licensee and registrant on the biennial renewal form must attest to completion of the required continuing education hours and that such hours were obtained during the two (2) calendar years (January 1 - December 31) that precede the licensure or registration renewal year.
- (c) Each licensee and registrant shall maintain, for a period of not less than four (4) years, all documentation pertaining to continuing education.

(3) Violations.

- (a) Any licensee or registrant who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action pursuant to Rule 1370-01-.13.

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.12, continued)

1. Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrants the intended action.
2. The licensee or registrant has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license or registration.
3. Any licensee or registrant who fails to show compliance with the required continuing education hours in response to the notice contemplated by part (3) (a) 1. above may be subject to disciplinary action

~~(4) Continuing Education for Reactivation of Retired or Expired Licenses and Registrations.~~

~~(a) Reactivation of a Retired License or Registration. An individual whose license or registration has been retired must complete continuing education requirements for each year the license or registration was retired as a prerequisite to reinstatement. Those hours will be considered replacement hours and cannot be counted during the next licensure or registration renewal period.~~

~~(b) Reactivation of an Expired License or Registration. Continuing education hours obtained as a prerequisite for reactivating an expired license or registration may not be counted toward the current calendar year continuing education requirement.~~

(4) Continuing Education for Reactivation or Reinstatement of Retired or Expired Licenses and Registrations.

(a) An individual whose license or registration has been retired or has expired must complete the continuing education requirements for each year the license or registration was retired or expired as a prerequisite to reactivation or reinstatement. The number of continuing education hours to be obtained, and the modality through which the continuing education hours may be obtained, shall be in accordance with the continuing education rules in place at the time the application for reactivation or reinstatement is submitted. The number of continuing education hours required for reactivation or reinstatement shall not exceed 100 hours. The continuing education hours obtained will be considered replacement hours and cannot be counted during the next licensure or registration renewal period.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-124 and 63-17-128. **Administrative History:** (Formerly 1370-01-.10) New rule filed January 31, 2000; effective April 15, 2000. Amendment filed September 13, 2001; effective November 27, 2001. Amendment filed April 26, 2002; effective July 10, 2002. Amendment filed January 31, 2003; effective April 16, 2003. Amendment filed July 22, 2003; effective October 5, 2003. Amendment filed September 11, 2006; effective November 25, 2006.

1370-01-.13 UNPROFESSIONAL AND UNETHICAL CONDUCT. The Board has the authority to refuse to issue a license or registration, or may suspend, revoke, or condition a license or registration for a period of time, or assess a civil penalty against any person holding a license to practice as a Speech Language Pathologist, or Audiologist, or registration as a Speech Language Pathology Assistant. In addition to the statute at T.C.A. §63-17-117, unprofessional and/or unethical conduct shall include, but not be limited to the following

- (1) Engaging in clinical work when the licensee or registrant is not properly qualified to do so, pursuant to Rules 1370-01-.04 and 1370-01-.14, by successful completion of training, course work and/or supervised practicum;
- (2) Failure to take precautions to avoid injury to the client;

- (3) The guarantee or warranty of any sort, whether expressed orally or in writing, of the results of any speech, language, or hearing consultative or therapeutic procedure for the client;
- (4) Diagnosis or treatment (excluding general information of an educational nature) of any individual speech, language or hearing disorders by correspondence;
- (5) Willfully betraying a professional secret;
- (6) Accepting for treatment, and/or continuing treatment of, any client where benefit cannot reasonably be expected to accrue or is unnecessary;
- (7) Violation, or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of the practice act or any lawful order of the Board issued pursuant thereto;
- (8) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as a Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant;
- (9) Engaging in the practice as a Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant under a false or assumed name, or the impersonation of another practitioner under a like, similar or different name;
- (10) Violation of the continuing education provisions of Rule 1370-01-.12;
- (11) Conviction of a felony or any offense involving moral turpitude;
- (12) Failing to provide adequate supervision for any assistant pursuant to Rule 1370-01-.14 or clinical fellow pursuant to Rule 1370-01-.10, including timely registration with the Board;
- (13) Supervising a quantity of assistants or clinical fellows inconsistent with the provisions of Rules 1370-01-.10 and/or 1370-01-.14

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-114, 63-17-117 and 63-17-128 **Administrative History:** Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed September 11, 2006; effective November 25, 2006.

1370-01-.14 SPEECH LANGUAGE PATHOLOGY ASSISTANTS AND SUPERVISION.

- ~~(1) Speech Language Pathology Assistants and Supervision.~~
 - ~~(a) Speech Language Pathology Assistants (SLPA) must work under the supervision of a licensed Speech Language Pathologist ("Supervising Licensee").~~
 - ~~(b) Beginning January 1, 2005, the minimum qualifications for persons employed as Speech Language Pathology Assistants shall be as follows:~~
 - ~~1. The applicant must have completed a program of study designed to prepare the student to be a Speech Language Pathology Assistant; and~~
 - ~~2. The applicant must have completed course work and field experiences in a technical training program for Speech Language Pathology Assistants approved by the American Speech-Language-Hearing Association (ASHA).~~

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

- ~~(i) Course work and fieldwork experience completed prior to January 1, 2005 will be evaluated to determine whether the applicant meets all criteria for registration.~~
- ~~(ii) All applicants for registration must be referred for registration by the program director of the technical training program where they have completed the field and course work requirements; or~~
- ~~3. The applicant must have earned sixty (60) college-level semester credit hours in a program of study that includes general education and the specific knowledge and skills for a SLPA. The training program shall include a minimum of one hundred (100) clock hours of field experiences supervised by a licensed Speech Language Pathologist.~~
 - ~~(i) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in general education.~~
 - ~~(ii) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in technical content. The course content must include the following:
 - ~~(I) overview of normal processes of communication and overview of communication disorders~~
 - ~~(II) instruction in assistant-level service delivery practices~~
 - ~~(III) instruction in workplace behaviors~~
 - ~~(IV) cultural and linguistic factors in communication~~
 - ~~(V) observation~~~~
 - ~~(iii) The one hundred (100) hours of supervised fieldwork experiences must provide appropriate experiences for learning the job responsibilities and workplace behaviors of a SLPA. These experiences are not intended to develop independent practice.~~
- ~~(c) Individuals registered with the Board as Speech Language Pathology Assistants before January 1, 2005 are exempt from the requirements of subparagraph (1)(b).~~
- ~~(2) Supervision by and Responsibilities of the Supervising Licensee.~~
 - ~~(a) Prior to commencement of training, individuals seeking to be Speech Language Pathology Assistants must be registered by the Supervising Speech Language Pathologist (Supervising Licensee) with the Board on a registration form provided at the request of the Supervising Licensee.~~
 - ~~1. The registration form shall be completed by the Supervising Licensee who shall return the completed form to the Board's Administrative Office with a copy of the written plan of training to be used for that SLPA.~~
 - ~~2. The SLPA shall not begin employment until he/she has registered with the Board and paid the required fees, as provided in rule 1370-01-.06.~~

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

- ~~(b) The registration form must also indicate, by name and signature, at least one (1) alternate Supervising Licensee who shall be on-site to provide the supervision when the primary Supervising Licensee is off-site for any temporary and impermanent reason.~~
- ~~(c) Notice of employment, change of supervisors, or termination of any SLPA must be forwarded by the Supervising Licensee to the Board's Administrative Office within thirty (30) days of such action.~~
- ~~(d) Prior to utilizing an SLPA, the licensed Speech Language Pathologist who is responsible for his or her direction shall carefully define and delineate the role and tasks. The Supervising Licensee shall:
 - ~~1. Define and maintain specific line of responsibility and authority.~~
 - ~~2. Assure that the SLPA is responsible only to him or her in all client-related activities.~~~~
- ~~(e) Any licensed Speech Language Pathologist may delegate specific clinical tasks to a registered SLPA who has completed sufficient training. However, the legal, ethical and moral responsibility to the client for all services provided, or omitted, shall remain the responsibility of the Supervising Licensee. An SLPA shall be clearly identified as an Assistant by a badge worn during all contact with the client.~~
- ~~(f) When an SLPA assists in providing treatment, a Supervising Licensee shall:
 - ~~1. Provide a minimum of fifteen (15) hours of training for the competent performance of the tasks assigned. This training shall be completed during the first thirty (30) days of employment. A written plan for this training shall be submitted with registration. This training should include, but not be limited to, the following:
 - ~~(i) Normal processes in speech, language, and hearing;~~
 - ~~(ii) A general overview of disorders of speech, language, and hearing;~~
 - ~~(iii) An overview of professional ethics and their application to the SLPA activities;~~
 - ~~(iv) Training for the specific job setting is to include information on:
 - ~~(I) The primary speech, language, and hearing disorders treated in that setting;~~
 - ~~(II) Response discrimination skills pertinent to the disorders to be seen;~~
 - ~~(III) Equipment to be used in that setting;~~
 - ~~(IV) Program administration skills, including stimulus presentation, data collection, and reporting procedures, screening procedures, and utilization of programmed instructional materials; and~~
 - ~~(V) Behavior management skills appropriate to the population being served.~~~~~~
 - ~~2. Evaluate each client prior to treatment.~~~~

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

- ~~3. Outline and direct the specific program for the clinical management of each client assigned to the SLPA.~~
- ~~4. Provide direct/indirect, but on-site observation according to the following minimum standards:
 - ~~(i) Provide direct observation for the first ten (10) hours of direct client contact following training.~~
 - ~~(ii) Supervision of an SLPA means direct supervision of not less than ten percent (10%) of an SLPA's time each week. Direct supervision means on-site and in-view supervision as a clinical activity is performed.~~
 - ~~(iii) The supervising licensee shall provide indirect supervision of not less than twenty percent (20%) of an SLPA's time each week. Indirect supervision may include audio and videotape recordings, numerical data, or review of written progress notes. The Supervising Licensee, or alternate Supervising Licensee, must still be on-site.~~
 - ~~(iv) At all times, the supervising licensee shall be available at a minimum by telephone whenever an SLPA is performing clinical activities.~~
 - ~~(v) All direct and indirect observations shall be documented and shall include information on the quality of an SLPA's performance.~~
 - ~~(vi) Whenever the SLPA's performance is judged to be unsatisfactory over two (2) consecutive observations, the SLPA shall be retrained in the necessary skills. Direct observations shall be increased to one hundred percent (100%) of all clinical sessions, until the SLPA's performance is judged to be satisfactory over two (2) consecutive observations.~~
 - ~~(vii) Ensure that the termination of services is initiated by the speech language pathologist responsible for the client.~~
 - ~~(viii) Make all decisions regarding the diagnosis, management, and future disposition of the client.~~~~
- ~~(g) A licensed Speech Language Pathologist shall not delegate the following responsibilities:
 - ~~1. Interpretation of test results or performances of diagnostic evaluation;~~
 - ~~2. Conduction of parent or family conferences or case conferences;~~
 - ~~3. Client or family counseling;~~
 - ~~4. Writing, developing, or modifying a client's individualized treatment plan;~~
 - ~~5. Treatment of clients without following the established plan;~~
 - ~~6. Signing any document without the co-signature of the supervising Speech Language Pathologist;~~
 - ~~7. Selection or discharge of clients for services;~~~~

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

- ~~8. Disclosure of clinical or confidential information, either orally or in writing, to anyone not designated by the Speech Language Pathologist; and~~
- ~~9. Referring clients for additional outside services.~~

~~(h) Supervision limitations~~

- ~~1. Supervising licensees shall supervise no more than two (2) Speech Language Pathology Assistants concurrently.~~
- ~~2. Supervising licensees shall supervise no more than three (3) Clinical Fellows concurrently.~~
- ~~3. Supervising licensees shall supervise no more than three (3) individuals concurrently.~~
- ~~4. A licensee who supervises three (3) individuals may provide alternate supervision to one (1) additional Speech Language Pathology Assistant or Clinical Fellow.~~
- ~~5. A licensee who supervises two (2) individuals may provide alternate supervision to two (2) additional Speech Language Pathology Assistants or Clinical Fellows.~~
- ~~6. A licensee who supervises one (1) individual may provide alternate supervision to three (3) additional Speech Language Pathology Assistants or Clinical Fellows.~~

(1) Requirements.

(a) Speech Language Pathology Assistants.

1. Speech Language Pathology Assistants must work under the supervision of a licensed Speech Language Pathologist ("Supervising Licensee").
2. The minimum qualifications for persons employed as Speech Language Pathology Assistants shall be as follows:
 - (i) The applicant must have completed a program of study designed to prepare the student to be a Speech Language Pathology Assistant. The applicant must have earned sixty (60) college-level semester credit hours in a program of study that includes general education and the specific knowledge and skills for a Speech Language Pathology Assistant. The training program shall include a minimum of one hundred (100) clock hours of field experience supervised by a licensed speech language pathologist.
 - (I) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in general education.
 - (II) At least twenty (20) semester credit hours of the sixty (60) hour requirement shall be in technical content. The course content must include the following:
 - I. overview of normal processes of communication and overview of communication disorders;
 - II. instruction in assistant-level service delivery practices;
 - III. instruction in workplace behaviors;

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

IV. cultural and linguistic factors in communication; and

V. observation.

(III) The one hundred (100) hours of supervised fieldwork experience must provide appropriate experience for learning the job responsibilities and workplace behaviors of a speech language pathology assistant. This experience is not intended to develop independent practice.

3. If the applicant's academic institution does not provide for the full one hundred (100) hours of supervised field work experience by a licensed Speech Language Pathologist, then the applicant shall register with the Board and shall have a minimum of thirty (30) days up to a maximum of ninety (90) days to acquire the full one hundred (100) clock hours of field experience needed to become a fully credentialed Speech Language Pathology Assistant.

(2) Scope of Practice.

(a) A Speech Language Pathology Assistant shall not perform the following:

1. Interpret test results or perform diagnostic evaluations;
2. Conduct parent or family conferences or case conferences;
3. Perform client or family counseling;
4. Write, develop, or modify a client's individualized treatment plan;
5. Treat clients without following the established plan;
6. Sign any document without the co-signature of the supervising speech language pathologist;
7. Select or discharge clients for services;
8. Disclose clinical or confidential information, either orally or in writing, to anyone not designated by the speech language pathologist;
9. Refer clients for additional outside service;

(3) Supervision by and Responsibilities of the Supervising Licensee.

(a) Prior to the commencement of training and/or employment, individuals seeking to be speech language pathology assistants must be registered by the supervising licensee with the Board on a registration form provided at the request of the supervising licensee.

1. The registration form shall be completed by the supervising licensee who shall return the completed form to the Board's administrative office with a copy of the written plan of training to be used for that Speech Language Pathology Assistant.
2. The Speech Language Pathology Assistant shall not begin training and/or employment until he/she has registered with the Board and paid the required fees, as provided in Rule 1370-01-.06.

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

3. For those applicants whose academic institution does not provide for the full one hundred (100) hours of supervised field work experience by a licensed Speech Language Pathologist:
 - (i) The registration form shall be completed by the supervising licensee who shall return the completed form to the Board's Administrative Office with a copy of the written plan of training to be used by the applicant.
 - (ii) The applicant shall not begin training and/or employment until he/she has registered with the Board. No fee shall be required during the thirty (30) to ninety (90) day period in which the applicant obtains the full one hundred (100) hours of supervised field work experience. Upon the completion of the full one hundred (100) hours, the applicant shall pay the required fees, as provided in Rule 1370-01-.06, to become a fully credentialed Speech Language Pathology Assistant.
- (b) The supervising licensee is responsible for designating an alternate licensed Speech Language Pathologist and ensuring that the designated alternate licensed Speech Language is available on-site to provide supervision when he/she is off site for any period of time. The designated alternate licensed Speech Language Pathologist must be registered with the Board as the alternate and should be documented on all written materials for training.
- (c) Notice of employment, change of supervisor, or termination of any Speech Language Pathology Assistant must be forwarded by the supervising licensee to the Board's administrative office within thirty (30) days of such action.
- (d) Prior to utilizing a Speech Language Pathology Assistant, the licensed Speech Language Pathologist who is responsible for his or her direction shall carefully define and delineate the role and tasks. The speech language pathologist shall:
 1. Define and maintain a specific line of responsibility and authority; and
 2. Assure that the Speech Language Pathology Assistant is responsible only to him or her in all client-related activities.
- (e) Any licensed Speech Language Pathologist may delegate specific clinical tasks to a registered Speech Language Pathology Assistant who has completed sufficient training. However, the legal, ethical, and moral responsibility to the client for all services provided, or omitted, shall remain the responsibility of the supervising licensee or of the licensed Speech Language Pathologist acting as supervisor in the absence of the supervising licensee. A Speech Language Pathology Assistant shall be clearly identified as an assistant by a badge worn during all contact with the client.
- (f) When a Speech Language Pathology Assistant assists in providing treatment, a supervising license shall:
 1. Provide a minimum of fifteen (15) hours of training for the competent performance of the tasks assigned. This training shall be completed during the first thirty (30) days of employment. A written plan for this training shall be submitted with registration. This training should include, but not be limited to, the following:
 - (i) Normal processes in speech, language, and hearing;

RULES FOR SPEECH PATHOLOGY AND AUDIOLOGY CHAPTER 1370-01

(Rule 1370-01-.14, continued)

Speech Language Pathology Assistant shall be retrained in the necessary skills. Direct observations shall be increased to one hundred percent (100%) of all clinical sessions, until the speech language pathology assistant's performance is judged to be satisfactory over two (2) consecutive observations;

(vii) Ensure that the termination of services is initiated by the Speech Language Pathologist responsible for the client; and

(viii) Make all decisions regarding the diagnosis, management, and future disposition of the client.

5. Provide supervision for an individual who is completing the required one hundred (100) hours of supervised field work experience pursuant to part (3)(a)3., as follows:

(i) Fifty percent (50%) of the remaining hours must be supervised directly, on-site;

(ii) Of the hours remaining pursuant to subpart (3)(f)5.(i), at least twenty-five percent (25%) must be supervised directly, on-site and

(iii) Any remaining hours must be supervised indirectly.

(iv) Example: If the individual needs to complete eighty (80) of the required 100 hours of supervised field work experience, the first forty (40) hours (50%) must be supervised directly, on-site. Of the remaining forty (40) hours, at least ten (10) of those hours (25%) must be supervised directly, on-site and the remaining thirty (30) hours must be supervised indirectly.

(g) Supervision limitations.

1. Supervising licensees shall supervise no more than three (3) individuals concurrently.

2. Supervising licensees shall supervise no more than two (2) speech language pathology assistants concurrently.

3. Supervising licensees shall supervise no more than three (3) clinical fellows concurrently.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-103, 63-17-105, 63-17-114 and 63-17-128. **Administrative History:** Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed June 22, 2004; effective September 5, 2004. Amendment filed August 3, 2005; effective October 17, 2005. Amendment filed September 11, 2006; effective November 25, 2006. Amendment filed April 6, 2010; effective July 5, 2010.

1370-01-.15 DISCIPLINARY ACTIONS, CIVIL PENALTIES, ASSESSMENT OF COSTS, AND SUBPOENAS.

(1) Upon a finding by the Board that the Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant has violated any provision of the Tennessee Code Annotated

* 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)
Lynne Harmon Burgess	X				
Valeria Matlock	X				
John Ashford	X				
Terri Philpot Flynn	X				
Whitney Mauldin	X				
Ronald Eavey				X	
O.H. "Shorty" Freeland				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Communication Disorders and Sciences on 11/06/2012, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/09/12

Rulemaking Hearing(s) Conducted on: (add more dates). 11/06/12

Date: 12/12/12

Signature: *Alex Munderloh*

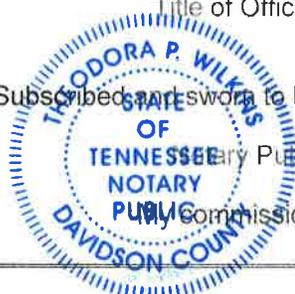
Name of Officer: Alex Munderloh
Assistant General Counsel

Title of Officer: Department of Health

Subscribed and sworn to before me on: 12/12/12

Notary Public Signature: *Theodora P. Wilkins*

My Commission expires on: 11/3/15



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.

RE Cooper Jr
Robert E. Cooper, Jr.
Attorney General and Reporter

6-25-13
Date

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Department of State Use Only

Filed with the Department of State on: 6/28/13

Effective on: 9/26/13
De Knight

