

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture

DIVISION: Forestry

SUBJECT: Prescribed Burning

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 11-4-1001, et seq.

EFFECTIVE DATES: October 29, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These new rules are being promulgated for the purpose of implementing the "Tennessee Prescribed Burning Act", codified at Tennessee Code Annotated, Sections 11-4-1001 et seq.

The Act authorizes the division of forestry of the Tennessee department of agriculture to establish a certification program for certified prescribed burn managers who may manage and conduct a "prescribed burn", defined as (1) the controlled application of fire to naturally occurring vegetative fuels for ecological, silvicultural and wildlife management purposes under specified environmental conditions, and (2) the following of appropriate precautionary measures which cause the fire to be confined to a predetermined area and accomplishes planned land management objectives.

A person conducting a prescribed burn in compliance with the Act shall only be liable for damages in the event of negligence.

**Department of State
Division of Publications**

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Sequence Number: 05-03-13
Rule ID(s): 5478
File Date: 5/31/13
Effective Date: 7/29/13

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 Agriculture
Division:	Forestry
Contact Person:	Theresa Denton
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0080-07-06	Rules Governing Prescribed Burning
Rule Number	Rule Title
0080-07-06-.01	Purpose
0080-07-06-.02	Definitions
0080-07-06-.03	Prescribed Burn Manager Certification Program
0080-07-06-.04	Certification
0080-07-06-.05	Conditional Certification
0080-07-06-.06	Continuing Education
0080-07-06-.07	Prescribed Burn Prescription Plan
0080-07-06-.08	Conducting the Prescribed Burn
0080-07-06-.09	Publishing and Maintaining the Certified Prescribed Burn Manager List
0080-07-06-.10	Reciprocity

RULES GOVERNING PRESCRIBED BURNING

0080-07-06-.01 Purpose.

These rules are promulgated to effectuate the purposes of the "Tennessee Prescribed Burning Act" T.C.A. §§ 11-4-1001 et seq.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.02 Definitions.

- (1) "Commissioner" means the Commissioner of the Department of Agriculture.
- (2) "Department" means the Department of Agriculture.
- (3) "Division" means the Division of Forestry within the Department.
- (4) "Prescribed Burning" means the controlled application of fire to vegetative fuels under environmental conditions specified in the Prescribed Burn Prescription Plan and following appropriate precautions which cause the fire to be confined to a predetermined area and accomplishes the objectives enumerated in the Prescribed Burn Prescription Plan.
- (5) "Prescribed Burn Certification Program" means a training course approved by the Division of Forestry to develop competence in prescribed burning.
- (6) "Certified Prescribed Burn Manager" means an individual who possesses valid Prescribed Burn Manager certification under this chapter.
- (7) "Prescribed Burn Prescription Plan" means a written plan, approved by a Certified Prescribed Burn Manager, for starting and controlling a prescribed burn to accomplish specified objectives.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.03 Prescribed Burn Manager Certification Program.

- (1) Training will be no less than twenty (20) hours and will include knowledge and skill evaluations; pertinent laws and regulations; and, all aspects of planning and safely implementing a prescribed burn plan.
- (2) Electronic or computer based training is permitted but shall not constitute the entire curriculum.
- (3) Written tests must be passed with a grade of 70% or higher.
- (4) Skills tests must be approved as "passed" by the evaluator.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.04 Certification.

- (1) The Division shall issue Prescribed Burn Manager certification to an applicant who has successfully completed Division approved training.
- (2) Division certification shall include a unique certification number.
- (3) Certification is valid for thirty-six (36) months from the date of issuance, renewal or reinstatement.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.05 Conditional Certification.

Instructors or graduates of the Division's Prescribed Fire Training courses offered from 2006 to 2011 shall be issued Prescribed Burn Manager certification upon written request to the Division.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.06 Continuing Education.

- (1) A Certified Prescribed Burn Manager shall maintain certification by receiving three (3) hours of continuing education provided or approved by the Division prior to the expiration of certification.
- (2) Continuing education completed within six (6) months of expiration will act to reinstate expired certification.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.07 Prescribed Burn Prescription Plan.

- (1) The Prescribed Burn Prescription Plan shall be submitted on forms provided or approved by the Commissioner and shall include, at a minimum, the information required by the Commissioner and must be signed by the Certified Prescribed Burn Manager.
 - (a) The Prescribed Burn Prescription Plan shall be kept on file for three (3) years following the date of the burn by the Certified Prescribed Burn Manager.
 - (b) The Certified Prescribed Burn Manager shall assure that burn operations are conducted according to the Plan.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.08 Conducting the Prescribed Burn.

- (1) The Certified Prescribed Burn Manager is responsible for assuring applicable local, state and federal regulations are met.
- (2) The Certified Prescribed Burn Manager supervising the burn shall personally direct, observe and coordinate the lighting of the initial fire to begin the burn operation.
- (3) At least one Certified Prescribed Burn Manager shall be present and supervising the burn operation at all times.
- (4) The Certified Prescribed Burn Manager shall have a copy of the Certified Prescribed Burn Prescription Plan with him or her on site at all times during burn operations.
- (5) The Certified Prescribed Burn Manager shall assure that burn operations are conducted according to the Plan.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.09 Publishing and Maintaining the Certified Prescribed Burn Manager List.

- (1) The Division will maintain the current Certified Prescribed Burn Manager list on the Department's website, with paper or electronic copies available upon request.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

0080-07-06-.10 Reciprocity.

- (1) Prescribed burn manager certification from other states shall not be recognized.

- (2) Other prescribed burn certification may not be substituted for the Tennessee Prescribed Burn Manager certification.

Authority: T.C.A. §§ 4-3-201 et seq. and 11-4-1003(d).

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 03/05/2013 (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: March 5, 2013

Signature: *Julius T. Johnson*

Name of Officer: Julius T. Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: March 5, 2013

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013



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

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

4-29-13

Date

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 OFFICE OF
 SECRETARY OF STATE

Filed with the Department of State on: 5/3/13

Effective on: 10/29/13

Tre Hargett

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture
DIVISION: Regulatory Services
SUBJECT: Regulations Governing Certain Plant Growers and Dealers
STATUTORY AUTHORITY: Tennessee Code Annotated, Section 43-6-104
EFFECTIVE DATES: October 29, 2013 through June 30, 2014
FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT:

Chapter 0080-06-02 Regulations Governing Strawberry Plant Growers and Dealers is repealed in its entirety.

Chapter 0080-06-05 Certification of Irish Potatoes is repealed in its entirety.

Chapter 0080-06-09 Camellia Flower Blight Quarantine is repealed in its entirety.

Chapter 0080-06-18 Vegetable Plant Certification is repealed in its entirety.

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Sequence Number: 05-20-13
Rule ID(s): 5481-5484
File Date: 5/31/13
Effective Date: 10/29/13

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 Agriculture
Division: Regulatory Services
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0080-06-02	Regulations Governing Strawberry Plant Growers and Dealers
0080-06-05	Certification of Irish Potatoes
0080-06-09	Camellia Flower Blight Quarantine
0080-06-18	Vegetable Plant Certification

Chapter 0080-06-02
Regulations Governing Strawberry Plant Growers and Dealers
Repeal

Chapter 0080-06-02 Regulations Governing Strawberry Plant Growers and Dealers is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

Chapter 0080-06-05
Certification of Irish Potatoes
Repeal

Chapter 0080-06-05 Certification of Irish Potatoes is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
PLANT INDUSTRIES

CHAPTER 0080-6-9
CAMELLIA FLOWER BLIGHT QUARANTINE

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~~0080-6-9-.01 PEST. Camellia Flower Blight (Sclerotinia camelliae).~~

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-9-.02 QUARANTINED AREAS.~~

~~(1) Infected Areas:~~

~~(a) California: Entire State~~

~~(b) Georgia:~~

~~1. Fulton County:~~

~~That property known as 3629 Tuxedo Road, located in the Northwest section of Atlanta, consisting of eleven acres, bounded on the north by Tuxedo Road, on the east by the property of J. M. Sheffield, on the west by the property of Hix Green, and on the south by the property of Robert T. Jones.~~

~~2. Richmond County:~~

~~That portion of the City of Augusta bounded by a line beginning at the intersection of Katherine Street and Walton Way and extending north along Katherine Street to the intersection of Cumming Street; thence east and southeast along Cumming Street to intersection of Hickman Road; thence southwest along Hickman Road to intersection of Walton Way to intersection of Heard Avenue; thence southeast and south along Heard Avenue to intersection of Richmond Avenue; thence west along Wrightsboro Road to Anthony Road; thence north along Anthony Road to~~

~~intersection of Central Avenue; thence west along Central Avenue to Stoval Street intersection; thence north along Stoval Street to south boundary of U.S. Arsenal; thence west along south boundary to west boundary; thence north along west boundary to north boundary; thence east along north boundary to Katherine Street.~~

(e) Louisiana:

1. Caddo Parish:

~~That portion of the City of Shreveport bounded on the north by Dalzell Street; on the south by East 60th Street and Sherwood Drive, on the east by Gilbert Avenue and on the west by the Kansas City Southern Railway.~~

2. Ouachita Parish:

~~That portion of the City of Monroe bounded on the north by Lidell Avenue; on the south by Moore Avenue and a line extending from Moore Avenue to the Missouri Pacific Railway; on the east by the Missouri Pacific Railway and on the west by South Grand Street and/or U. S. Highway 165 and that portion of the City of Monroe bounded on the north by Mulberry Street and Louise Anne Avenue thence out Louise Anne Avenue to South First Street thence down South First Street to the Missouri Pacific Railway; on the south by Pear Street; on the east by the Missouri Pacific Railway; and on the west by the Ouachita River.~~

3. Orleans Parish:

~~That portion of the City of New Orleans bounded on the north by Feret Street; on the south by the Mississippi River; on the east by Calhoun Street; and on the west by Hillary Street.~~

(d) North Carolina:

1. Brunswick County:

~~That part of Orton Plantation beginning at the main entrance to Orton Plantation on Highway N. C. 130 and extending north along said highway one mile, thence due east to Cape Fear River, thence south along Cape Fear River for two miles, thence due west to Highway N. C. 130 and along said highway 130 north to main entrance to Orton Plantation.~~

~~Beginning at a point on the west bank of Cape Fear River east of and in line with the main Residence Building on Pleasant Oak Plantation and extending north along said river one mile; thence along a straight line due west for one mile; thence south along a line parallel to and one mile west~~

of said river for two miles; thence due east to said river and along west bank of river north to starting point This property is located east of N. C. Highway 130, 7 miles south of Junction of Highway 130 and 17.

2. ~~New Hanover County:~~

~~All that property known as Airlie Gardens and Nursery, located on both sides of U. S. Highway 74 and 76 just west of Wrightsville Sound. That portion of the City of Wilmington bounded on the north by Market Street; on the east by the city limit line; on the south by a line one half mile south of and parallel to the city limit line; and on the west by South 17th Street.~~

3. ~~Onslow County~~

~~That portion of Onslow County included within the boundaries of Camp LeJeune Marine Base.~~

4. ~~Wilson County:~~

~~That area included within a circle having a one mile radius with the center at the entrance to Tomlinson's Nursery. This property is located 2.2 miles from the Wilson City limits on Highway 264 East.~~

~~(e) Oregon: Entire State.~~

~~(f) Virginia: Entire State.~~

(2) ~~Restricted Areas:~~

~~All other states that do not maintain restrictions against the movement of restricted material from designated infected states of areas into their respective states.~~

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-9-.03 PROHIBITED PRODUCTS. ~~Balled and potted camellia plants and cut camellia flowers may not be moved into Tennessee from the infected areas.~~

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-9-.04 CONDITIONS GOVERNING SHIPMENT OF RESTRICTED PRODUCTS

(1) ~~Camellia plants free from soil will be admitted from the infected areas when accompanied by certificate issued by a duly authorized official of the state of origin certifying that the buds showed no trace of color at the time of shipment.~~

- (2) — ~~Restricted material from states that do not maintain restrictions against the designated infected areas may be shipped in Tennessee only when the grower, dealer, or nurseryman furnishes satisfactory evidence that he will not receive any camellia plants with soil attached, and buds showing any trace of color and/or camellia flowers from the infected areas.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~
0080-6-9-.05 PENALTY:

- (1) — ~~Any person, firm, or corporation who shall violate any of the provisions of this quarantine shall be deemed guilty of a misdemeanor under Section 12 of the Plant Pest Act of 1955, and shall be liable to the penalties prescribed therein.~~
- (2) — ~~All quarantines, rules and regulations made prior to the date of this quarantine relative to Camellia Flower Blight are hereby revoked.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
PLANT INDUSTRIES**

**CHAPTER 0080-6-5
CERTIFICATION OF IRISH POTATOES**

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0080-6-5-.07 Diseased Plants
0080-6-5-.08 Storage~~

~~**0080-6-5-.01 APPLICANTS.** Any person, firm or corporation may apply for seed certification provided the grower plants certified seed or foundation seed approved by the Division of Insect and Plant Disease Control, Tennessee Department of Agriculture, and agrees to abide by all rules and regulations governing the production of certified seed. Application for certification service should be made on or before March 1st to the Division of Insect and Plant Disease Control, State Capitol, Nashville's Tennessee.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.02 COST OF TAGS AND SEALS.** The grower will bear the cost of the tags and seals, usually amounting to 1 1/2 to 2 cents per 100 lb. bag. No other fees are required.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.03 FIELDS.** The potatoes must be planted in a field in which potatoes have not been grown for at least three years. The field must be not less than 200 feet distant from any other non-certified potato field of the current year. If two or more varieties are grown for certification they must be separated by at least 10 feet.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.04 TREATMENT OF SEED POTATOES.** The seed potatoes must be properly treated at the time of planting. This treatment should be done under the supervision of one~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~0080-6-5-.05 SPRAYING.~~ The potatoes must be sprayed or dusted in order to keep the field as free as possible from insects and diseases. Spraying should be started when potatoes are about 6 inches high and continued weekly throughout the growing season.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-5-.06 CULTURAL CONDITIONS.~~ Fields showing poor cultural conditions, including lack of weed control, may be disqualified.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-5-.07 DISEASED PLANTS.~~ All diseased plants, including the tubers, must be rogued as soon as they are observed. The plants rogued out, including tubers, must be removed from the field.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 15, 1974.~~

~~0080-6-5-.08 STORAGE.~~ Potatoes must be stored in dry storage, either in regular potato storage house or basement, properly ventilated. Conditions should be such that freezing or overheating will be prevented. Excessive sprouting in storage may disqualify for certification. All potatoes over-stored in the ground will be disqualified.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 1974.~~

~~0080-6-5-.09 TWO INSPECTIONS.~~ There will be two field inspections at a toe most favorable for identification of diseases and insects, distributors of diseases. In addition, there will a bin inspection at harvest time and another just prior to grading and sacking.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-5-.10 DISEASE TOLERANCES.~~

Disease tolerances:

	Field Inspections	
	1st	2nd
Mosaic	2%	1%
Leaf roll	2%	1%
Spindle tuber	2%	1%
Notal virus	4%	3%
Fusarium wilt	2%	1%
Black log	2%	1%
Bacterial ring rot	0	0
Varietal mixture	1%	0

Early Blight)

Late Blight) If present to such an extent that identification of virus diseases cannot be made, the field will be disqualified.

Storage Inspections

	Bin	Prior to grading
Rhizoetonia	5%	5%
Scab	5%	5%
Spindle tuber	2%	1%
Bacterial ring rot	0	0
Storage rots	3%	2%
Nematode	0	0
Late blight rot	2%	1%
Varietal mixture	1%	0

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-5-11 SIZE.

Size—U. S. Standard No. 1 or 2—

U. S. No. 1— Minimum size 1 7/8 inches in diameter.
Maximum size 10 oz. in weight.

U. S. No. 2— Minimum size 1 1/2 inches in diameter.
Maximum size 2 inches in diameter.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-5-12 SAMPLES OF SEEDS. Samples of all seed which are officially sealed and tagged may be required and planted in a place designated by the inspector to enable him to check on the quality of the grower's seed stock. This will also serve to protect the grower against possible complaints.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-5-13 SACKS AND TAGGING. To be eligible for official seal and tag, potatoes shall be sold in NEW approved sacks (such as are customarily used for commercial shipments of potatoes) containing one hundred (100) pounds net weight. Each sack shall be tagged and sealed with the official tags issued for "Tennessee State Certified Seed Potatoes" for the current year.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-5-14 STANDARDS FOR GROWERS.

- (1) — ~~Growers fulfilling the above requirements will be qualified for certification, which signifies the following standards: This grade shall consist of one variety of potatoes certified by the Division of Insect and Plant Disease Control, State Department of Agriculture. The tubers must be true to varietal name, mature, well shaped, free from freezing or over heating injury, and reasonably free from dirt, sunburn, second growth and growth cracks, and deep cuts. Potatoes must conform to tolerances already set forth where rot or evidence of disease or insect injury is present.~~

- (2) — ~~In order to allow for variations incident to proper grading and handling, not more than five (5) per cent by weight of any lot may be below the prescribed size, and, in addition, not more than six (6) per cent by weight, may be below the requirements of the specified grade, but not to exceed one sixth (1/6) of this six (6) per cent tolerance shall be allowed for potatoes affected by any storage rot.~~

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
PLANT INDUSTRIES

~~CHAPTER 0080-6-2~~
~~REGULATIONS GOVERNING STRAWBERRY PLANT GROWERS AND DEALERS~~

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~~0080-6-2-.01 TENNESSEE CERTIFIED PLANTS.~~

- ~~(1) No strawberry plants shall be sold, offered, stored, or held for sale, or transported within or into the State of Tennessee unless they shall have been certified as being essentially free of insect pests and plant diseases by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture or by a legally constituted agency designated for such purpose in other states, territories, or counties. The requirements for certification of strawberry plants in the State of Tennessee are as follows:~~
- ~~(a) — Application for certification shall be made to the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture on or before March 15 of each calendar year.~~
- ~~(b) — Only first year fields set from certified parent plants are eligible for certification.~~
- ~~(c) — Fields offered for certification must be well cultivated and be maintained essentially free of weeds and grasses. Fields not so maintained or in which the plant stands are very thin will not be certified.~~
- ~~(d) — Fields offered for certification must be on soil in which red stele disease (Phytophthora fragariae) has not been known to occur, and which has not been subjected to drainage or other contamination from soil known to be infested with red stele disease.~~

- (e) — Fields offered for certification shall be inspected at least twice each year. One inspection shall be made in the Spring to be completed by May 30 and another inspection shall be made in the Fall to be completed by November 15. As many other inspections will be made in the fields and at packing, shipping, and storage locations as individual circumstances warrant and require. When in the judgment of the Director of Entomology and Plant Pathology and inspection at time of digging is necessary to determine the certifiable status of plants in a field offered for certification, he shall so notify the owner or producer of said plants. It shall then be the responsibility of the owner or producer to notify the Director of Entomology and Plant Pathology of the date that digging of the plants will commence. Notice of digging shall be given by the owner or producer to the Director of Entomology and Plant Pathology, or his agents or representatives, as early as practicable, but at least 24 hours in advance of the date that digging will commence. Strawberry plants being held or stored for subsequent sale shall be subject to inspection at any time during the holding or storage period. The owner of such plants shall be required to furnish information as to the location at which the plants are held or stored and to furnish, during reasonable business hours, facilities (such as adequate lighting, labor for moving crates, etc.) for their inspection.
- (f) — Fields offered for certification shall have no discernible mixture of varieties. When more than one variety is grown, the varieties must be separated by a clean, cultivated strip at least six feet wide. Any off-variety plants occurring in a field or block must be removed by the grower. If such off-variety plants are satisfactorily eliminated, the field or block may be eligible for certification.
- (g) — Plants certified must be maintained essentially free of insect pests and plant diseases. Plants certified must not exceed the following tolerances on any one inspection or on a combination of all inspections.
1. — Red stele disease — none
 2. — Crimp (foliar nematode disease) — none
 3. — Root knot, root gall, root lesion, dwarf, or decline caused by root nematodes — none, infestation is general. If infestation is localized and plants in local infestations are destroyed, the planting may be eligible for certification.
 4. — Crown borer, weevil, aphid, root worm, leaf roller — 1% provided the grower or owner satisfactorily eliminated the pest by insecticidal or other treatment.
 5. — Leaf variegation (such as Blakemore yellows) — 1% provided that all visibly affected plants are eliminated by the grower.

6. ~~Leaf spot or scorch—must not be heavy or general in fields offered for certification.~~
 7. ~~Crinkle or other viruses—none. Any planting containing plants visibly affected will be summarily disqualified.~~
 8. ~~Not limited by the above, any seriously injurious plant pest or disease appreciably damaging to the strawberry or capable of being spread to new areas by the movement of strawberry plants.~~
- (2) ~~All strawberry plants sold, offered for sale, held or stored for subsequent sale, traded, delivered, distributed, shipped, or offered for shipment, shall bear on each bundle of plants a tag showing the certificate number and/or the grower's name and address and the variety of such plants. In addition such strawberry plants shall be viable and shall be stored, packed, and handled in such a way as to give reasonable assurance of such plants being in living condition when delivered to the ultimate purchaser.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~0080-6-2-.02 TENNESSEE REGISTERED PLANTS.~~

- (1) ~~Tennessee Registered plants are hereby defined as “essentially virus-free” plants produced in accordance with the rules and regulations herein prescribed. Tennessee Registered plants shall meet all the requirements of “Tennessee Certified” plants as set forth above and in addition must meet the following special requirements:~~
 - (a) ~~Planting shall originate with foundation stock that has had the prior approval of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. A grower may continue to propagate as “Registered” stock any variety that is not more than two years removed from “Foundation” stock provided no virus has been detected in the planting and provided further that the planting is maintained continuously under rules and regulations governing the production of “Registered” stock.~~
 - (b) ~~Planting sites on which it is proposed to produce Tennessee Registered plants must be isolated from other strawberry plantings to the extent practicable considering terrain and the extent of land holdings by the grower, and the degree of isolation shall always be subject to the approval of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. Failure or inability to provide sufficient isolation shall be grounds for disqualification of a planting.~~
 - (c) ~~Growers of “Tennessee Registered” plants will be required to maintain all plants produced by them in the “Registered” category unless they have secured a prior exemption from this requirement from the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture, Exemptions will be granted only for~~

limited amounts of those varieties for which Foundation stock is not available at the time the request for exemption is made and such exempted varieties must be grown under such conditions and precautions as may be prescribed by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture.

- (d) — Plantings offered for certification as “Tennessee Registered” stock shall be treated with insecticide for the control of aphids that spread the strawberry virus complex, at such intervals and using such formulations and quantities of materials as shall be recommended by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture, or by the University of Tennessee Experiment Station. Said Director will approve or accept alternative control programs when in his opinion the materials are equivalent in purpose and effect. Records of insecticide and fungicide applications shall be kept by the grower and made available to the Director of Entomology and Plant Pathology or his representative.
- 1. — Neglect or failure in application of required controls or in keeping the required records shall constitute grounds for disqualification of the planting. Finding of an appreciable or generally distributed population of vector aphids within a field shall summarily disqualify the planting.
- (e) — Plants shall be selected from fields offered for certification as “Tennessee Registered” stock for indexing by the Director of Entomology and Plant Pathology or his representative at such times and in such quantity as he shall determine. Detection of virus shall summarily disqualify the planting provided that, if the grower have other blocks or varieties that are so located in relation to the infected block that in the opinion of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture possibilities of contamination are remote, such other blocks or varieties may not necessarily be disqualified if the infected block or variety be immediately destroyed by the grower and such other precautions as shall be prescribed by the Director of Entomology and Plant Pathology shall be carried out.
- (f) — Plants produced in accordance with the requirements of this section will be certified as “Registered Certified Plants.” The certification shall state that the plants, have been produced from foundation stock that is essentially free from known viruses and that the plants have been grown under conditions that reduce the probability of field contamination to a minimum, and that the plants are believed to be free of any appreciable amounts of virus infection.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-2-.03 TENNESSEE FOUNDATION PLANTS

- (1) — Strawberry “Foundation” plants or stock are hereby defined as strawberry plants which have been determined by State or Federal experiment stations or other authorized agencies as being free from all known viruses and propagated or maintained under such

conditions as to preclude the introduction of viruses in accordance with the rules and regulations herein prescribed. Foundation plants must meet all the pertinent requirements for Tennessee Certified and Tennessee Registered plant as set forth in Sections 0080-6-2-.01 and 0080-6-2-.02 above, and in addition must conform to the following rules and regulations:

- (a) — Plants, used for the production of Foundation stock, must be approved by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture prior to planting.
- (b) — Planting sites on which it is proposed to maintain or propagate Foundation stock must be approved by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. Such sites shall be either fields isolated from all other strawberry plants whether cultivated or wild by a distance of at least three thousand feet or tightly screened houses. Soil in Foundation planting sites shall be fumigated or otherwise sterilized using materials and methods prescribed or accepted by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture.
- (c) — Plants (10 or more per acre) shall be taken from Foundation stock by the Director of Entomology and Plant Pathology for indexing. Plants for indexing will be collected periodically but at least once each year from each such planting. Finding of virus infected plants shall immediately disqualify the foundation planting.
- (d) — Foundation stock when sold, shall bear on each bundle or bunch of plants a tag showing the growers name, address and certificate number and the variety of the plants.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

0080-6-2-.04 REGULATION OF DEALERS.

(1)

- (a) — It shall be illegal for any person to engage in the business of buying and selling strawberry plants without first having secured a nursery dealer's certificate from the Tennessee Department of Agriculture. Such certificate shall be issued on application when applicant has affirmed that all nursery stock handled, including strawberry plants, will have been secured from a source holding a valid certificate issued by the proper official of this State or other state or states, and when such applicant has furnished to the Director of Entomology and Plant Pathology a list of such certified sources from which he proposes to secure stock, provided that the sources of supply are otherwise acceptable under these regulations. It shall be the responsibility of the dealer holding a certificate under these regulations to maintain such records as are necessary to demonstrate that stock sold, displayed for sale, held, stored, or transplanted was, in fact, secured from such stipulated certified sources. Stock being moved by means other than by common carrier and

not packaged shall be accompanied by an itemized sales invoice showing the source of acquisition.

- (b) — The provisions of this section shall not be construed to prohibit the occasional purchase, sale, or exchange (for purposes of completing an order, meeting a shipping date, and the like) of relatively small numbers of strawberry plants between one or more regularly certified strawberry plant growers or producers, provided that such transactions are incidental to the person's business of producing and selling certified strawberry plants and are not a regular or substantial part of the total business, and provided that the records stipulated above are satisfactorily maintained.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.05 SEIZURE.~~ Strawberry plants found to be infested or infected by an insect pest and/or plant disease while being offered for sale, held or stored for subsequent sale, traded, delivered, shipped or offered for shipment in, into or from this State, or being moved in violation of any section of the Tennessee Plant Pest Act, (Sections 43-515 through 43-526, as amended, of the Tennessee Code Annotated) or in violation of any of the regulations promulgated there under shall be seized by the Director of Entomology and Plant Pathology. The owner of such seized stock will be given the option of having the stock treated at his expense, if a treatment can be given that, in the judgment of the Director of Entomology and Plant Pathology, will be effective in removing any hazard of spread of insect pests and/or plant diseases, or having the stock returned to him, at his expense, if same shall have originated outside of this State, or destroyed. It shall be illegal for the owner, consignor, consignee, carrier or other person to move or deliver such seized stock until it is released by the Director of Entomology and Plant Pathology or his representative.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.06 OUT-OF-STATE PLANTS.~~ No person shall sell, offer for sale, or distribute within this State any strawberry plants originating in source plantings in other states, territories, or countries unless such plants shall be certified by a legally constituted agency of such other state, territory, or country as meeting certification standards equally as rigid as those required for certification and sale or distribution of plants in this state as set forth in Section I and 11 above and such certification of states, territories or countries of origin must be on the basis of at least two field inspections timed comparably to those required in Section I.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.07 USE OF CERTIFICATES.~~ All strawberry plants shipped, sold or delivered or transported for sale or delivery in this State shall have affixed to each package a tag, which shall bear a copy of the valid certificate covering such plants. These tags shall expire on the same date as the certificates under which they are printed unless such certificates shall be revoked or suspended prior to that date. Use of tags beyond their expiration date or on shipments or sales of plants not covered by the certificate shall be a violation of these regulations.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.08 LABELING & ADVERTISING TO AGREE WITH CERTIFICATION.~~ No person shall sell, offer for sale, or distribute within this State any strawberry plants represented by means of labeling or advertising to be "disease free", or "virus free", or "produced from 'virus free' stock", or "registered" or "foundation" stock unless such stock is so classified by a legally constituted agency designated for such purpose.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.09 REVOCATION.~~

- ~~(1) — All certificates issued under these regulations may be immediately suspended or revoked when:
 - ~~(a) — Plants or stock covered by the certificate are determined to be in non-certifiable status in accordance with the provisions of these regulations.~~
 - ~~(b) — Certificates are misused, transferred, sold, loaned, applied to stock not covered by the certificate, or otherwise handled or used in violation of the requirements and intent of the applicable regulations.~~
 - ~~(c) — Any of the provisions of the Tennessee Plant Pest Act of 1955 (Sec. 43-515 through 43-526, as amended, of the Tennessee Code Annotated) or of the regulations promulgated there under are violated by the holder of said certificates.~~~~
- ~~(2) — In case of revocation or suspension of certificates, all such certificates together with certificate tags printed or issued thereunder, shall be immediately surrendered to the Tennessee Department of Agriculture on demand of the Director of Entomology and Plant Pathology or his representative and it shall be a misdemeanor for the holder of such certificates or certificate tags to refuse to make such surrender.~~

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.10 PENALTIES.~~ Any person who shall violate any provision or requirement of these regulations or who shall interfere with or obstruct the Director of Entomology and Plant Pathology or any of his duly designated employees or agents in the performance of his duties under these regulations shall incur the penalties provided in Section 43-526 of the Tennessee Code Annotated.

Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.

~~0080-6-2-.11 PREVIOUS REGULATIONS.~~ These Regulations supersede all previous regulations on this subject and any prior regulations on this subject are hereby revoked

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF PLANT INDUSTRIES**

**CHAPTER 0080-6-18
VEGETABLE PLANT CERTIFICATION**

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0080-6-18-.01 Definitions
0080-6-18-.02 Certifications
0080-6-18-.03 Repealed
0080-6-18-.04 Use of Certificates
0080-6-18-.05 Revocation of Certification

0080-6-18-.01 DEFINITIONS

- (1) — “DEPARTMENT” means Tennessee Department of Agriculture.
- (2) — “ACT” means the “Tennessee Plant Pest Act”, T.C.A. §43-6-101 and 43-6-112.
- (3) — “DIRECTOR” means the Director of the Plant Industries Division, Tennessee Department of Agriculture or his duly authorized representative.
- (4) — “CONTAINER” means a crate, bundle, flat or grouping of uniform plants.
- (5) — “VEGETABLE PLANTS” means all species of tomato, pepper, cabbage, broccoli and cauliflower.

Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.

0080-6-18-.02 CERTIFICATION

- (1) — No vegetable plants shall be sold, offered for sale, held for sale, or transported into or within the State of Tennessee unless they have been certified as being essentially free of insect pests and plant diseases and true to name by the Director or certified by a legally constituted agency designated for such purpose in other states, territories or countries as meeting certification standards substantially the same as those required for certification in Tennessee.
- (2) — The requirements for certification are as follows:

- (a) — Application for certification shall be made to the Director on or before February 1 of each calendar year.
- (b) — Fields, greenhouses, and other sites offered for certification must be well cultivated and be maintained essentially free of weeds and grasses. Planting sites not so maintained will not be certified.
- (c) — Fields, greenhouses and sites used for the production of certified vegetable plants must not have been planted during the previous five (5) years to soybeans not to other crops susceptible to root knot nematode within the previous three (3) years unless the site has been tested and approved by the Director as being free from such nematodes. Sites may be sampled and assayed each year to confirm the absence of soybean cyst nematode (*Heterodera Glycines*).
- (d) — Fields, greenhouses, and other sites used for the production of certified vegetable plants must not have been planted to these same crops within the previous two (2) years. Successive plantings of certified crops shall be allowed until such sites are rejected by the Director because of disease or nematodes.
- (e) — Seeds used to produce certified vegetable plants are required to comply with all requirements of the Tennessee Seed Law, T.C.A. §43-10-101 et seq. and the regulations promulgated pursuant thereto.
- (f) — Vegetable plants that are grown in fields, greenhouses or other sites shall be spaced in such a way that different varieties can be identified and properly labeled.

Authority: T.C.A. §43-6-104. *Administrative History:* Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.

0080-6-18-.03 REPEALED

Authority: T.C.A. §43-6-104. *Administrative History:* Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982.

0080-6-18-.04 USE OF CERTIFICATES

All vegetable plants shipped, sold, delivered or transported for sale or delivery in this State shall have affixed to each container a tag which shall bear a copy of the valid certificate covering such plants. The certificate and all tags shall expire on December 31 of each year unless they have been suspended or revoked prior to that date. Use of tags beyond their expiration date or on shipments or sales of plants not covered by the certificate shall be a violation of these regulations.

~~*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.*~~

~~0080-6-18-.05 REVOCATION OF CERTIFICATION~~

- (1) — ~~All certificates issued pursuant to this chapter may be suspended or revoked if:~~
- (a) — ~~Vegetable plants covered by the certificate are determined to be in a condition that is in violation of the requirements for certification in rule 0080-6-18-.02 (2) or the Act.~~
 - (b) — ~~Certificates are misused, transferred, sold, applied to plants not covered by the certificate, or otherwise handled or used in violation of this Chapter.~~
- (2) — ~~Upon the revocation or suspension of any certificates, all such certificates together with any certification tags printed or issued there under shall be immediately surrendered to the department on demand of the Director.~~

~~*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed November 27, 1985; effective December 27, 1985.*~~

Chapter 0080-06-09
Camellia Flower Blight Quarantine
Repeal

Chapter 0080-06-09 Camellia Flower Blight Quarantine is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

Chapter 0080-06-18
Vegetable Plant Certification
Repeal

Chapter 0080-06-18 Vegetable Plant Certification is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

* 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 a proposed rule(s), lawfully promulgated and adopted.

Date: March 11, 2013

Signature: *Julius Johnson*

Name of Officer: Julius Johnson

Title of Officer: Commissioner



Subscribed and sworn to before me on: March 11, 2013

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013

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

RE Cooper
Robert E. Cooper, Jr.
Attorney General and Reporter

5-9-13

Date

Department of State Use Only

Filed with the Department of State on: 5/31/13

Effective on: 10/29/13



Tre Hargett
Secretary of State

RECEIVED
2013 MAY 31 AM 10:02
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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Agriculture

DIVISION: Regulatory Services

SUBJECT: Regulations for the Enforcement of Milk and Ice Cream

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 53-3-203(d)(1)

EFFECTIVE DATES: October 29, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The proposed repeal of the chapters including regulations on milk and ice cream will eliminate unnecessary rules. This issue is now addressed by statute in Tennessee Code Annotated, Title 53, Chapter 3, Part 2.

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 05-21-13
Rule ID(s): 5485-5486
File Date: 5/31/13
Effective Date: 10/29/13

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 Agriculture
Division:	Regulatory Services
Contact Person:	K. David Waddell
Address:	P.O. Box 40627
Zip:	37204
Phone:	615-837-5331
Email:	david.waddell@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
0080-03-05	Regulations for the Enforcement of Milk
0080-03-06	Regulations for the Enforcement of Ice Cream

Chapter 0080-03-05
Regulations for the Enforcement of Milk

Repeal

Chapter 0080-03-05 Regulations for the Enforcement of Milk is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 53-3-203(d)(1).

Chapter 0080-03-06
Regulations for the Enforcement of Ice Cream

Repeal

Chapter 0080-03-06 Regulations for the Enforcement of Ice Cream is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 53-3-203(d)(1).

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE

CHAPTER 0080-3-5
REGULATIONS FOR THE ENFORCEMENT OF MILK

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0080-3-5-.01 Records 0080-3-5-.03 General Provisions
0080-3-5-.02 Price Filing Requirements

0080-3-5-.01 RECORDS

(1) —

(a) — All distributors and retailers of milk and milk products as defined in Section 52-331, T.C.A., shall keep for ninety (90) days invoices showing the following:

1. Date of delivery
2. Products delivered (including the number and size of units delivered)
3. The price of products delivered
4. Type of service rendered when other than standard service.

(b) — The aforementioned shall be kept for inspection by the Commissioner of Agriculture or his duly authorized representative in order for him to determine whether or not said distributors and retailers are in compliance with the provisions of Sections 52-331 through 52-334 T.C.A.

(2) — All distributors, processors, retailers, and/or their affiliated corporations shall keep for the inspection of the Commissioner of Agriculture or his duly authorized representative, bills of sale, purchase contract, or lease agreements of all equipment used for storing, transporting or selling milk or milk products.

(3) — All processors and distributors shall maintain cost records of their operation during the preceding three (3) months to be used as a basis for determining whether or not said processor or distributor is selling or offering to sell milk below cost. Such records shall contain, but not limited to, invoices, cost of materials, salaries, any rebates or discounts, lease agreements, purchase contracts, depreciation of equipment, any computations made for tax purposes either federal or local.

Authority: T.C.A. §52-333(B)(2). Administrative History: Original Rule filed April 14, 1975; effective May 14, 1975.

0080-3-5-.02 PRICE FILING REQUIREMENTS

- (1) ~~All processors or distributors offering for sale or selling milk or milk products in private label cartons for a specific customer or group of customers shall file a separate price schedule for such private label products with the Commissioner of Agriculture on a form furnished by said Commissioner. Said price schedule shall be filed in accordance with Section 52-331(2)(c) T.C.A., and all regulations promulgated under Section 52-333(B)(2) T.C.A.~~
- (2) ~~All processors and distributors offering for sale or selling milk or milk products on a store door or store platform service and/or a plant dock service as defined in Sections 52-331(1)(k) and (1) T.C.A. shall file with the Commissioner of Agriculture a list of all customers receiving such type services and of all changes in and amendments thereto made from time to time within forty-eight (48) hours after said change or amendment. Where the customer has no front or rear receiving platform or porch, then it will be permissible to place the milk and milk products inside the store door, but in no case at a distance further than six (6) feet from said door.~~
- (3) ~~Whenever any processor or distributor amends any price schedule theretofore filed with the Commissioner of Agriculture for any reason whatsoever, such processor or distributor shall file a full and complete schedule of all current prices for the market area affected, including prices then on file and not changed by such amendment.~~
 - (a) ~~All processors or distributors who meet, or have met, in good faith, a lawful competitive price or a lawful competitive condition relating to milk or milk products, shall notify the Commissioner of Agriculture by certified mail of his action within twenty-four (24) hours after said action is effective. Such notification shall include a statement containing the following information:~~
 1. ~~The name and address of the retailer involved, or the affected area;~~
 2. ~~All prices, terms and conditions extended in meeting the competition;~~
 3. ~~The name and address of the processor and/or distributor whose price or condition is being met, and the effective date of such price or condition.~~
 - (b) ~~A processor or distributor who has met, in good faith, a lawful competitive price or condition relating to milk or milk products, shall retain in his files for a period of one year information and/or statements detailing the circumstances surrounding all competitive situations which he has met.~~
- (4) ~~All retailers of milk and milk products who purchase the same in packages ready to be sold to the consumer from a point outside the State for resale in this State shall file with the Commissioner of Agriculture, State of Tennessee, a list of prices paid for such milk or milk products and the type service received at least ten (10) days before bringing such~~

milk or milk products into this State for resale, and said retailer shall thereafter advise the Commissioner of any changes in or amendments thereto as required of processors and/or distributors in Section 52-331(2)(c) T.C.A.

- (5) — All processors and distributors in completing their price filing forms as required by section 52-331(2)(c) T.C.A. will in the portion relating to sales area designate their respective sales area by county, and if a portion of a county, then the town and community affected in that county.

Authority: T.C.A. §52-333(B)(2).

~~0080-3-5-.03 GENERAL PROVISIONS~~

- (1) — All retailers shall calculate to the nearest whole cent the price of each unit of sale and all one-half cents shall be considered to be the next highest whole cent.
- (2) — All other regulations previously issued by the Commissioner of Agriculture for the enforcement of Sections 52-331 through 52-334 T.C.A., and promulgated in accordance with Section 4-501, T.C.A., et seq., are by these regulations repealed.

Authority: T.C.A. §52-333(B)(2).

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE

CHAPTER 0080-3-6
REGULATIONS FOR THE ENFORCEMENT OF ICE CREAM

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0080-3-6-.01 Records
0080-3-6-.02 Price Filing Requirements
0080-3-6-.03 General Provisions

0080-3-6-.01 RECORDS

(1)

~~(a) All distributors and retailers of frozen desserts as defined in Section 52-335 T.C.A., shall keep for ninety (90) days invoices showing the following:~~

- ~~1. date of delivery~~
- ~~2. products delivered (including the number and size of units delivered)~~
- ~~3. the price of products delivered~~
- ~~4. types of service rendered when other than standard service.~~

~~(b) The aforementioned shall be kept for the inspection by the Commissioner of Agriculture or his duly authorized representative in order for him to determine whether or not said distributors and retailers are in compliance with the provisions of T.C.A. 52-335 through T.C.A. 52-341.~~

~~(2) All distributors, processors, retailers, and/or their affiliated corporations shall keep for the inspection of the Commissioner of Agriculture or his duly authorized representative, bills of sale, purchase contract, or lease agreements of all equipment used for storing, transporting or selling frozen desserts.~~

~~(3) All processors and distributors shall maintain cost records of their operation during the preceding year (either calendar or fiscal year) to be used as a basis for determining whether or not said processor or distributor is selling or offering to sell frozen desserts below cost. Such records shall contain, but not limited to, invoices, cost of materials, salaries, any rebates or discounts, lease agreements, purchase contracts, depreciation of equipment, any computations made for tax purposes either federal or local.~~

~~Authority: T.C.A. Section 52-341(B).~~

0080-3-6-.02 PRICE FILING REQUIREMENTS.

- ~~(1) All processors or distributors offering for sale or selling frozen desserts in private label cartons for a specific customer or group of customers shall file a separate price schedule for such private label products with the Commissioner of Agriculture on a form furnished by said Commissioner. Said price schedule shall be filed in accordance with Section 52-335(e)(3) T.C.A., and all regulations promulgated under Section 52-341(B)(2) T.C.A.~~
- ~~(2) All processors and distributors offering for sale or selling frozen desserts on a store door or store platform service and/or a plant dock service as defined in Sections 52-335(b)(9) and (10), shall file with the Commissioner of Agriculture a list of all customers receiving such type services and of all changes in and amendments thereto made from time to time within forty eight (48) hours after said change or amendment.~~
- ~~(3) Whenever any processor or distributor amends any price schedule theretofore filed with the Commissioner of Agriculture for any reason whatsoever, such processor or distributor shall file a full and complete schedule of all current prices for the market area affected, including prices then on file and not changed by such amendment.
 - ~~(a) All processors or distributors who meet, or have met, in good faith, a lawful competitive price or a lawful competitive condition relating to frozen desserts, shall notify the Commissioner of Agriculture by certified mail of his action within twenty four (24) hours after said action is effective. Such notification shall include a statement containing the following information:
 - ~~1. the name and address of the retailer involved;~~
 - ~~2. all prices, terms and conditions extended in meeting the competition;~~
 - ~~3. the name and address of the processor and/or distributor whose price or condition is being met, and the effective date of such price or condition.~~~~
 - ~~(b) A processor or distributor who has met, in good faith, a lawful competitive price or condition relating to frozen desserts, shall retain in his files for a period of one year information and/or statements detailing the circumstances surrounding all competitive situations which he has met.~~~~
- ~~(4) All retailers of frozen desserts who purchase the same in packages ready to be sold to the consumer from a point outside the State for resale in this State shall file with the Commissioner of Agriculture, State of Tennessee, a list of prices paid for such frozen desserts and the type service received at least ten (10) days before bringing such frozen desserts into this State for resale, and said retailer shall thereafter advise the Commissioner of any changes in or amendments thereto as required of processors and/or distributors in Section 52-335(e)(3).~~

- (5) ~~All processors and distributors in completing their price filing forms as required by Section 52-335(e)(3) T.C.A., will in the portion relating to sales area designate their respective sales areas by county, and if a portion of a county, then the town or community affected in that county.~~

~~*Authority: T.C.A. Section 52-341(B).*~~

0080-3-6-.03 GENERAL PROVISIONS

- (1) ~~All retailers shall calculate to the nearest whole cent the price of each unit of sale and all one half cents shall be considered to be the next highest whole cent.~~
- (2) ~~All other regulations previously issued by the Commissioner of Agriculture for the enforcement of Sections 52-335 through 52-341 T.C.A., and promulgated in accordance with Section 4-501 T.C.A., et seq., are by these regulations repealed.~~

~~*Authority: T.C.A. Section 52-341(B).*~~

* 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 a proposed rule(s), lawfully promulgated and adopted.

Date: March 11, 2013

Signature: *Julius Johnson*

Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: March 11, 2013

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013



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

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

5-29-13
Date

Department of State Use Only

Filed with the Department of State on: 5/31/13

Effective on: 10/29/13

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: State Board of Equalization

DIVISION:

SUBJECT: Contested Case Procedures

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections § 67-1-305, 67-5-1412, and 67-5-1501(d)

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

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: These rule amendments (1) delete obsolete language limiting electronic filing of property tax appeals and (2) add language to create a right to amend a timely filed property tax appeal to include an assessment year or years subsequent to the year in which the original appeal was filed.

Public Hearing Comments

The Board received public hearing comments on this rule as summarized, with agency response, below.

1. Andrea McKinnon, an attorney practitioner before the Board, expressed concern that assessors of property should not be permitted to amend an appeal for the purpose of contending a value in excess of the assessor's certified value for the year at issue. Agency Response: The Board's proposed amendment merely creates a right in any party to an appeal to amend the appeal to include a subsequent tax year if specified conditions are met. The proposed rule does not preclude an opposing party raising any relevant issue, such as whether the assessor should or should not be permitted to argue for a value in excess of certified value.
2. Robert Lee, General Counsel to the state Comptroller, argued that assessors should have the same right to amend as taxpayers, either to merely bring up the issue of later years or to bring previously undiscovered certified value errors to the attention of the Board while all parties are present. Mr. Lee also argued the Board should not permit taxpayer amendments to include subsequent years if the amendments were offered merely to avoid the taxpayer having to appear before the county board of equalization for the subsequent year. Agency Response: If the assessor believes a particular taxpayer is abusing the rule as amended, the assessor may request the Board to remand for hearing before the county board of equalization before the matter proceeds to a Board hearing on the merits.

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 amendment to Rule 0600-01-.10 permitting amendment of property tax appeals to include subsequent years would not significantly affect local governments because the right is recognized under existing precedent. The rule amendment clarifies when amendment is permitted to assure consistent application of this precedent.

Regulatory Flexibility Addendum

Pursuant to TCA §4-5-401 et seq., the Board has reviewed these amendments for their impact on small business and determined the impact would be negligible. This conclusion is based on the following findings or assumptions:

- (1) The amendment to Rule 0600-01-.03 conforms the rule to new statutory authorization for electronic signature, and deletes obsolete language relating to filing appeals on a floppy disk (remember those?).
- (2) The amendment to Rule 0600-01-.10 clarifies the right to amend an appeal to include subsequent years and will benefit small businesses who neglect to appeal subsequent years to their local board of equalization while working through the state appeal process.

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For Department of State Use Only

Sequence Number: 05-18-13
Rule ID(s): 5480
File Date: 5/30/13
Effective Date: 8/28/13

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	State Board of Equalization
Division:	
Contact Person:	Kelsie Jones, Executive Secretary
Address:	9 th Fl. W. R. Snodgrass TN Tower, 312 Rosa L. Parks Ave., Nashville, TN
Zip:	37243-1102
Phone:	615-747-5379
Email:	kelsie.jones@cot.tn.gov

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0600-01	Contested Case Procedures
Rule Number	Rule Title
0600-01-.03	Initiating a Contested Case
0600-01-.10	Counterclaims

Substance of rule amendments:

Rule 0600-01-.03 would be amended by deleting the following language at the end of paragraph (1)(d):

An electronic filing may be used to establish the appeal filing date for purposes of the statutory deadline to appeal, but the sworn and written appeal form must still be filed before the appeal is docketed for a hearing on the merits, or earlier if directed by the administrative judge. Electronic filing is not available when the number of parcels in a single filing is fewer than 100.

Rule 0600-01-.10 would be amended by designating the existing language as paragraph (1) and by adding the following new paragraph (2):

An original real property appeal timely filed at the Board may be amended as of right to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal. An original real property appeal filed late may be amended to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal, if 1) the late appeal was nonetheless eligible for a reasonable cause determination under section 67-5-1412; and 2) the written order disposing of the original appeal was entered later than ten (10) days before the deadline for appealing the subsequent year assessment to the county or state boards of equalization. All other requests to amend shall lie within the discretion of the administrative judge. The appellant permitted to amend shall file a separate appeal form for the subsequent year

'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226 (j):

0600-01-.03 INITIATING A CONTESTED CASE.

(1) A contested case before the Board may be initiated by:

- (a) completing and filing Form No. SBOE-4 if the case relates to action taken or reviewable by a county board;
- (b) completing and filing Form No. SBOE-7 if the case relates to an initial determination of the Board designee on an application for property tax exemption;
- (c) filing a specific written petition or complaint, if neither (1) nor (2) above is applicable; or
- (d) filing data in such computer-readable format as the Board may authorize, subject to technical requirements approved by the Board. ~~An electronic filing may be used to establish the appeal filing date for purposes of the statutory deadline to appeal, but the sworn and written appeal form must still be filed before the appeal is docketed for a hearing on the merits, or earlier if directed by the administrative judge. Electronic filing is not available when the number of parcels in a single filing is fewer than 100.~~

(2) Any appeal form or written complaint under paragraph (a) of this rule shall be:

- (a) signed and sworn to by the party in whose behalf it is prosecuted, or an authorized representative of such party; and
- (b) accompanied by a copy of any pertinent notice or decision received by the appellant from the assessing authority or county board.

(3) The submission of a written request for an appeal form may be considered an appeal to the Board for purposes of an appeal deadline if it reasonably identifies the property and taxpayer, provided any form required by these rules is completed and filed within 30 days or other deadline specified by the administrative judge.

(4) Contested cases commenced by action of the Board will be initiated by notice to affected parties. In the case of a declaratory proceeding notice shall be supplemented by publication of notice in the Tennessee Administrative Register, including a citation and summary of any rule or statute at issue and a statement of any proposed ruling.

(5) The filing of a complaint for revocation of exemption under Tenn. Code Ann. §67-5-212 does not commence a contested case until there has been a finding of probable cause for revocation and referral of the matter to an administrative judge.

0600-01-.10 COUNTERCLAIMS.

(1) Counterclaims in a contested case must be filed no later than thirty (30) days prior to the date of scheduled hearing. This rule does not preclude any party, at the hearing of the appeal, from propounding a higher or lower value for the property in question than that determined by the county board.

(2) An original real property appeal timely filed at the Board may be amended as of right to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal. An original real property appeal filed late may be amended to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal, if 1) the late appeal was nonetheless eligible for a reasonable cause determination under section 67-5-1412; and 2) the written order disposing of the original appeal was entered later than ten (10) days before the deadline for appealing the subsequent year assessment to the county or state boards of equalization. All other requests to amend shall lie within the discretion of the administrative judge. The appellant permitted to amend shall file a separate appeal form for the subsequent year or years if directed by the executive secretary or

administrative judge, and the appellant shall be responsible for additional hearing or processing costs related to the subsequent year assessments.

or years if directed by the executive secretary or administrative judge, and the appellant shall be responsible for additional hearing or processing costs related to the subsequent year assessments.

Authority: T.C.A. §§67-1-305, 67-5-1412 and 67-5-1501 (d).

Legal Contact:

Kelsie Jones, Executive Secretary
State Board of Equalization
9th Fl. W. R. Snodgrass TN Tower
312 Rosa L. Parks Ave.
Nashville, TN 37243-1102
615/747-5379

Contact for disk acquisition: Kelsie Jones

The roll call vote by the Board on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent
Bennett	X			
Button	X			
Hargett				X
Lillard				X
Roberts	X			
Slatery				X
Wilson	X			

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Equalization on 3/15/2013 and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 9/20/11

Notice published in the Tennessee Administrative Register on: _____

Rulemaking Hearing(s) Conducted on: 11/21/11



Date: April 25, 2013

Signature: Kelsie Jones

Name of Officer: Kelsie Jones

Title of Officer: Executive Secretary

Subscribed and sworn to before me on: April 25, 2013

Notary Public Signature: Rhonda D. Wright

My commission expires on: July 7, 2014

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

5-16-13

Date

Department of State Use Only

Filed with the Department of State on: *5/30/13*

Effective on: *8/28/13*

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Wildlife Resources Agency

DIVISION: Fisheries Division

SUBJECT: Gibson County Lake

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 69-9-209, 69-10-209, 70-1-206, 70-2-219 and 70-4-107.

EFFECTIVE DATES: August 29, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: Gibson County Lake, a 560-acre impoundment located 5 miles east of Trenton, is currently divided into two distinct zones: a recreational zone where swimming and skiing are permitted, and a "no wake" zone where only fishing is permitted. This rule amendment extends the "no wake" zone lake-wide and prohibits skiing and swimming in all areas of the lake.

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.

RULE: 1660-01-05-.03

New	<input type="checkbox"/>
Amendment	<input checked="" type="checkbox"/>
Repeal	<input type="checkbox"/>

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

Attached hereto are the responses to public comments.

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)

Will passage of this rule have a projected financial impact on local governments?

There will be no projected financial impacts on local governments.

Please describe the increase in expenditures or decrease in revenues:

n/a

Regulatory Flexibility Addendum

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

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

The Commission does not anticipate significant impact to small businesses in Tennessee.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The Commission anticipates no record keeping associated with this rule.

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

The Commission anticipates no probable effect to small businesses.

(4) 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 business;

The Commission is unaware of alternatives to the proposed rule and does not believe the rule as proposed would be burdensome to small businesses.

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

The Commission is unaware of federal or state counterparts to this rule.

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

The Commission anticipates no probable effect to small businesses and exemptions to this rule would likely not be beneficial.

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Sequence Number: OS-22-13
Rule ID(s): 5487
File Date: 5/31/13
Effective Date: 8/29/13

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:	Tennessee Wildlife Resources Agency
Division:	Fisheries Division
Contact Person:	Lisa Crawford
Address:	PO Box 40747, Nashville, TN
Zip:	37204
Phone:	615-781-6606
Email:	Lisa.Crawford@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
1660-01-05	Rules And Regulations For Fishing
Rule Number	Rule Title
1660-01-05-.03	TWRA Lakes

Chapter 1660-01-05
Rules And Regulations For Fishing

Amendment

Rule 1660-01-05-.03 TWRA LAKES, is amended by deleting paragraphs (5), (6), (9), and (12) in their entirety and replacing them; paragraph (13) is deleted in its entirety and paragraphs (14) and (15) will be renumbered accordingly, so that as amended they read as follows:

Rule 1660-01-05-.03 TWRA LAKES

- (1) The lakes governed by this rule are Browns Creek Lake, Carroll Lake, Coy Gaither-Bedford Lake, Davy Crockett Lake, Garrett Lake, Gibson County Lake, Glenn Springs Lake, Graham Lake, Herb Parsons Lake, Laurel Hill Lake, Maples Creek Lake, Marrowbone Lake, Reelfoot-Indian Creek Watershed Lakes (Obion County), V.F.W. Lake, Whiteville Lake, and Williamsport Lake.
- (2) A Daily or Annual Fishing Permit is required on all lakes listed above except Garrett Lake, Reelfoot-Indian Creek Watershed Lakes, and Whiteville Lake. These permits (not transferable) are required by all except those exempt under provisions of paragraph 3.

- (3) Residents exempt from the Daily Lake Permit are: those 65 years of age and older, children under 16 years of age and those with a Sportsman License. Non-Residents exempt from the Daily Lake Permit are: children under 16 years of age.
- (4) Unattended private boats may not be left on the lakes except those tied to permitted boat docks on Gibson County Lake.
- ~~(5) Boats may not exceed no-wake speed, except as noted in No. (9). Boats used for any activity other than fishing is prohibited, except as noted in Nos. (6) and (7). Use of motors, other than electric trolling motors, to operate boats on V.F.W. Lake, Coy Gaither-Bedford Lake, Williamsport Lakes, or Marrowbone Lake is prohibited.~~
- (5) Boats may not exceed no-wake-speed, except as noted in No. (9). Boats used for any activity other than fishing is prohibited, except as noted in No. (7). Use of motors, other than electric trolling motors, to operate boats on V.F.W. Lake, Coy Gaither-Bedford Lake, Williamsport Lakes, or Marrowbone Lake is prohibited.*
- ~~(6) Houseboats, sailboats, cruisers, skiing, and swimming are prohibited except skiing and swimming are permitted in the Gibson County Lake recreational zone. Swimming permitted on Reelfoot-Indian Creek Watershed Lakes.~~
- (6) Houseboats, sailboats, cruisers, skiing, and swimming are prohibited except swimming is permitted on Reelfoot-Indian Creek Watershed Lakes.*
- (7) Hunting is permitted during the regular hunting season on the following lakes and adjacent state lands, except on areas posted as safety zones: Garrett Lake, VFW Lake, Whiteville Lake, Coy Gaither Bedford Lake, Laurel Hill Lake, Carroll Lake (no big game hunting allowed on Carroll Lake and State owned land adjacent thereto), and Reelfoot-Indian Creek Watershed Lakes. Trapping is allowed on Reelfoot-Indian Creek Watershed Lakes as set out in statewide regulations. Waterfowl hunting is permitted from temporary or natural blinds only on Garrett Lake, Laurel Hill Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes. Blinds and decoys must be removed daily from Garrett Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes. Firearms are prohibited on all areas except those open to hunting. Boats may be used for waterfowl hunting on Garrett Lake, Laurel Hill Lake, Whiteville Lake, and Reelfoot-Indian Creek Watershed Lakes.
- (8) On those lakes where camping is permitted it is restricted to those areas designated by the Lake Manager or concessionaire in charge, and requires their permission.
- ~~(9) On Laurel Hill Lake and Gibson County Lake, the "no wake" speed is restricted to that area of the lake delineated by "no-wake" buoys.~~
- (9) On Laurel Hill Lake, the "no-wake" speed is restricted to that area of the lake delineated by "no-wake" buoys.*
- (10) All persons utilizing Agency managed lakes and property must supply license and permit information, present their catch for inspection, and check in and out if requested by Agency personnel or agents.
- (11) No person shall be under the influence or in the possession of any intoxicating beverages or drugs while on these areas, nor shall any person deface state property, block access areas, cut trees, bushes, and shrubs or litter the area.
- ~~(12) On Reelfoot-Indian Creek Watershed Lakes, trotlines, limblines and commercial fishing are prohibited. Jugfishing is limited to 10 jugs per boat on all agency lakes, with the exception of Gibson County Lake.~~
- (12) On Reelfoot-Indian Creek Watershed Lakes, trotlines, limblines and commercial fishing are prohibited. Jugfishing is limited to 10 jugs per boat on all agency lakes.*
- ~~(13) No jugfishing, trotlines, or limblines allowed on Gibson County Lake.~~

(14) (13) For safety reasons, the TWRA regional manager or his designee, has the authority to close any TWRA lake to motor boats.

(15) (14) Use Fees

- (a) Resident/Non-Resident Bedford Lake 1 Day Fishing Permit (Type 65) - \$5.00
- (b) Daily TWRA Lake Fishing Permit (Type 191) - \$5.00
- (c) TWRA Lake Boat Rental Permit (Type 192) - \$8.00
- (d) Annual TWRA Lake Fishing Permit (Type 193) - \$40.00

Authority: T.C.A. §§69-9-209, 69-10-209, ~~70-1-206~~, 70-2-219, ~~70-4-107~~.

Administrative History: Original rule certified May 8, 1974. Amendment filed June 9, 1978; effective July 10, 1978. Amendment filed May 19 1980; effective July 3, 1980. Repeal and new rule filed February 4, 1983; effective March 7, 1983. Amendment filed February 20, 1986; effective March 22, 1986. Amendment filed June 9, 1986; effective July 9, 1986. Amendment filed February 26, 1987; effective April 12, 1987. Amendment filed April 20, 1988; effective June 4 1988. Amendment filed December 18, 1989; effective February 1, 1990. Amendment filed January 14, 1991; effective February 28, 1991. Amendment filed September 26, 1996; effective December 10, 1996. Amendment filed February 27, 1998; effective May 13, 1998. Amendment filed September 4, 1998; effective November 18, 1998. Amendment filed March 31, 2000; effective June 14, 2000. Amendment filed January 5, 2001; March 22, 2001. Amendment filed January 3, 2003; effective March 19, 2003. Amendments filed February 10, 2005; effective April 26, 2005. Amendment filed May 12, 2005; effective July 26, 2005. Amendment filed February 9, 2007; effective April 25, 2007.

* 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
Jeff McMillin	✓			
Jim Bledsoe	✓			
William L. Brown				
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Tom Rice	✓			
Jim Ripley				✓
Julie Schuster	✓			
Clayton Stout	✓			
James Stroud				✓
Trey Teague	✓			
Jamie Woodson				✓

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 04/26/2013 (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: 02/22/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 04/26/2013



Date: 4-30-13

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director

Subscribed and sworn to before me on: 4-30-13

Notary Public Signature: Lisa Crawford

My commission expires on: 5-5-15

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

5-21-13

Date

Department of State Use Only

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Filed with the Department of State on: 5/31/13

Effective on: 8/29/13

Tre Hargett

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Tennessee Wildlife Resources Agency

DIVISION: Wildlife

SUBJECT: Wildlife Management Area Permits and Fees

STATUTORY AUTHORITY: Tennessee Code Annotated, Section 70-1-206

EFFECTIVE DATES: August 29, 2013 through June 30, 2014

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: The rule amendment changes the annual use fee from \$420.00 to \$250.00 for anyone using the Tennessee Wildlife Resources Agency Hunter Education and Range Facility.

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.

RULE: 1660-01-27-.05

New	<u> </u>
Amendment	<u> X </u>
Repeal	<u> </u>

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

Attached hereto are the responses to public comments.

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)

Will passage of this rule have a projected financial impact on local governments?

The Commission is not aware of any projected financial impacts on local governments.

Please describe the increase in expenditures or decrease in revenues:

The Commission does not expect an increase in expenditures.

The current cost of an annual user fee is cost prohibitive to the shooting public. Currently, only one customer purchases an annual user fee permit. The fee decrease is expected to generate more interest resulting in higher sales of the permit.

Regulatory Flexibility Addendum

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

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

The commission does not anticipate significant impact to small businesses in Tennessee. This proposed rule lowers the annual user fee at the TWRA Hunter Education and Range Facility only.

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;

The Commission anticipates no record keeping associated with this rule.

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

The Commission anticipates no probable effect to small businesses.

(4) 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 business;

The Commission is unaware of alternatives to the proposed rule and does not believe the rule as proposed would be burdensome to small businesses.

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

The Commission is unaware of federal or state counterparts to this rule.

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

The Commission anticipates no probable effect to small businesses and exemptions to this rule would likely not be beneficial.

**Department of State
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For Department of State Use Only

Sequence Number: 05-23-13
Rule ID(s): 5488
File Date: 5/31/13
Effective Date: 8/29/13

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: Tennessee Wildlife Resources Agency
Division: Region 1
Contact Person: Lisa Crawford
Address: PO Box 40747, Nashville, TN
Zip: 37204
Phone: 615-781-6606
Email: Lisa.Crawford@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
1660-01-27	Rules and Regulations for State Operated Hunter Education Centers and Public Firing Ranges
Rule Number	Rule Title
1660-01-27-.05	Tennessee Wildlife Resources Agency Hunter Education and Range Facility

Chapter 1660-01-27

Rules and Regulations for State Operated Hunter Education Centers and Firing Ranges

Amendment

1660-01-27-.05, Tennessee Wildlife Resources Agency Hunter Education and Range Facility, is amended by deleting subparagraph (b) of paragraph (1) and replacing it with a new subparagraph (b) so that, as amended, it shall read:

(b) Annual Fee (all ages) - ~~\$420.00~~ \$250.00

* 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
Jeff McMillin	✓			
Jim Bledsoe	✓			
William L. Brown				
Harold Cannon	✓			
Bill Cox	✓			
Jeffrey H. Griggs	✓			
Tom Rice	✓			
Jim Ripley				✓
Julie Schuster	✓			
Clayton Stout	✓			
James Stroud				✓
Trey Teague	✓			
Jamie Woodson				✓

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Fish & Wildlife Commission on 04/26/2013 (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: 02/22/2013

Rulemaking Hearing(s) Conducted on: (add more dates). 04/26/2013

Date: 4-30-13

Signature: Ed Carter

Name of Officer: Ed Carter

Title of Officer: Executive Director



Subscribed and sworn to before me on: 4-30-13

Notary Public Signature: Lisa Crawford

My commission expires on: 5-5-15

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.

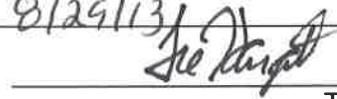
Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter

5-21-13
 Date

Department of State Use Only

Filed with the Department of State on: 5/31/13

Effective on: 8/29/13



Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

DEPARTMENT: Department of Health

AGENCY/BOARD/COMMISSION: Board of Medical Examiners

DIVISION: Polysomnography Professional Standards Committee

SUBJECT: Increase to Fees for Polysomnographic Technologists

STATUTORY AUTHORITY: Tennessee Code Annotated, Sections 63-31-104 and 63-31-106

EFFECTIVE DATES: August 14, 2013 through June 30, 2014

FISCAL IMPACT: The Committee is not currently self-sufficient, and the fee increase is directed towards attaining self-sufficiency. There will be minimal impact outside of the Polysomnography Professional Standards Committee. Polysomnographic Technologists will individually bear the burden of the proposed fee increase. As of the date this rule amendment was filed, there were approximately two hundred fifty (250) Polysomnographic licensees.

STAFF RULE ABSTRACT: The amendment to the current rule raises the application fee from one hundred dollars (\$100) to two hundred dollars (\$200) and the biennial renewal fee from fifty dollars (\$50.00) to one hundred twenty dollars (\$120) for Polysomnographic Technologists.

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 at the public hearing.

Impact on Local Governments

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

This rule amendment is not expected to have an impact on local governments.

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

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

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

These rules exhibit clarity, conciseness, and lack of ambiguity.

3. The establishment of flexible compliance and/or reporting requirements for small business.

The compliance requirements contained in the rules are the same for large or small businesses and are as flexible as possible while still allowing the Committee to achieve its mandated mission of protecting the health, safety, and welfare of Tennesseans and its obligation to be financially self-sustaining.

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

These rule amendments do not contain any schedules or deadlines. Compliance requirements contained in the rules are the same for large or small businesses.

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

Compliance requirements contained in the rules are the same for large or small businesses.

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

These rules do not establish performance, design, or operational standards.

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

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

STATEMENT OF ECONOMIC IMPACT

1. **Name of Board, Committee or Council:** Polysomnography Professional Standards Committee
2. **Rulemaking hearing date:** February 26, 2013
3. **Type or types of small businesses that will be directly affected by the proposed rules:**

Polysomnographic Technologists, and individuals desirous of becoming licensed as Polysomnographic Technologists. There are currently approximately two hundred fifty (250) Polysomnographic licensees.
4. **Types of small businesses that will bear the cost of the proposed rules:**

Polysomnographic Technologists will individually bear the burden of the proposed fee increase.
5. **Types of small businesses that will directly benefit from the proposed rules:**

There are no anticipated benefits to small businesses.
6. **Description of how small business will be adversely impacted by the proposed rules:**

The proposed fee increase may cause an economic inconvenience for Polysomnographic licensees; however, there are no increased or new reporting, recordkeeping, or other administrative duties and/or costs associated with the rule amendment.
7. **Alternatives to the proposed rule that will accomplish the same objectives but are less burdensome, and why they are not being proposed:**

There are no alternative means which are less burdensome, intrusive, or costly.
8. **Comparison of the proposed rule with any federal or state counterparts:**
 - (a) **Federal:** There are no Federal counterparts.
 - (b) **State:** The fee increase is not out of proportion with other Health Related Boards in Tennessee.

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
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For Department of State Use Only

Sequence Number: 05-11-13
Rule ID(s): 5479
File Date: 5/16/13
Effective Date: 8/14/13

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 Medical Examiners
Division:	Polysomnography Professional Standards Committee
Contact Person:	Mary Katherine Bratton, Esq.
Address:	220 Athens Way, Suite 210, Nashville, TN
Zip:	37243
Phone:	615-741-1611
Email:	Mary.Bratton@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
0880-14	General Rules and Regulations Governing the Practice of Polysomnography
Rule Number	Rule Title
0880-14-.02	Fees

(Rule 0880-14-.01, continued)

Authority: T.C.A. §§ 63-31-101 and 63-31-104. **Administrative History:** Original rule filed March 2, 2010; effective May 31, 2010.

0880-14-.02 FEES. The following fees are nonrefundable and apply to all applicants and licensees.

(1)	Application Fee	\$100.00 <u>\$200.00</u>
(2)	Biennial Renewal Fee	\$50.00 <u>\$120.00</u>
(3)	State Regulatory Fee - To be paid upon application and annually thereafter to be collected at biennial renewal from all license holders.	\$ 5.00 (\$10.00 biennially)
(4)	Late Renewal Fee	\$ 50.00
(5)	Replacement License Fee	\$ 25.00

Authority: T.C.A. §§63-1-106, 63-1-112, 63-31-104, and 63-31-106. **Administrative History:** Original rule filed March 2, 2010; effective May 31, 2010.

0880-14-.03 QUALIFICATIONS FOR LICENSURE.

- (1) Polysomnographic Technologist - To become licensed as a polysomnographic technologist an applicant must comply with the following procedures and requirements:
 - (a) An applicant shall complete an application that can be obtained from the Committee Office. The application form is not acceptable if any portion of it or any other documents required to be submitted by this rule or the application itself have been executed and dated prior to one year before filing with the Committee.
 - (b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and these rules to the Committee Office. The required fees (application fee and state regulatory fee) may be paid in person, by mail or electronically by cash, check, money order, or by credit or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Polysomnography Professional Standards Committee.
 - (c) An applicant shall submit all documentation in support of an application to the Committee Office. All supporting documents must be received in the Committee Office within ninety (90) days of receipt of the application or the file will be closed. When necessary, all required documents shall be translated into English and such translation as well as the original document certified as to authenticity by the issuing source. Both versions must be submitted.
 - (d) An applicant shall have the Tennessee Bureau of Investigation send the result of a criminal background check of the applicant directly to the Committee Office.
 - (e) An applicant shall cause to be submitted to the Committee Office two letters of reference from any of the following providers:
 1. A supervising physician,

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

Committee Member	Aye	No	Abstain	Absent	Signature (if required)
Kristin W. Lester	X				
Madelyn K. Cunningham	X				
Bryan Hughes				X	
Donald A. Samples	X				
Donna J. Lovitt	X				
Roxanne M. Valentino, M.D.	X				
Jim O. Donaldson	X				

Roll call vote by the Board of Medical Examiners on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael D. Zanolli, M.D.	X				
Subhi D. Ali, M.D.	X				
Dennis Higdon, M.D.	X				
Michael John Baron, M.D.	X				
Jeff P. Lawrence, M.D.	X				
Neal Beckford, M.D.	X				
Keith Lovelady, M.D.	X				
Clinton Allen Musil, Jr., M.D.	X				
Patricia Eller	X				
Barbara Outhier				X	
Nina Yeiser				X	
William Reeves Johnson, M.D.	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Polysomnography Professional Standards Committee on 02/26/13, 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: 01/4/13

Rulemaking Hearing(s) Conducted on: (add more dates). 02/26/13

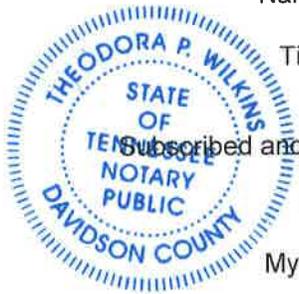
Date: 3/19/13

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton

Assistant General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 3/19/13

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

5-9-13

Date

Department of State Use Only

Filed with the Department of State on: 5/16/13

Effective on: 8/14/13

Tre Hargett

Tre Hargett
Secretary of State

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