

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alcoholic Beverage Commission

SUBJECT: Retail Employee Permits

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 57-1-209 and 57-3-204(c)

EFFECTIVE DATES: March 17, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule corrects three T.C.A. citations in the rules.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process 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.

Exemptions from requirements of T.C.A. §4-5-401, et seq.: T.C.A. §4-5-404 states that §4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

Rule 100-06-.07 is amended by these proposed rules solely to correct an incorrect T.C.A. citation. This is a non-substantive amendment that codifies existing state law by incorporating the correct T.C.A. citation. Therefore, the rule is exempt from the requirements of T.C.A. §4-5-401, et seq. as a substantial codification of existing state law

Impact on Local Governments

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

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

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Sequence Number: 12-15-15
 Rule ID(s): 6078
 File Date: 12/18/15
 Effective Date: 3/17/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person/Disc Acquisition Contact:	E. Keith Bell
Address:	Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN
Zip:	37243
Phone:	615.741.1602
Email:	Keith.Bell@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
0100-06	Intra-Industry Conduct and Regulations
Rule Number	Rule Title
0100-06-.07	Retail Employee Permits

Chapter Number	Chapter Title
Rule Number	Rule Title

AMENDMENTS TO CHAPTER 0100-06-.07, INTRA-INDUSTRY CONDUCT and REGULATIONS,
'REDLINE' DEPICTION OF RULES AS AMENDED, PER TCA 4-5-226(i)

0100-06-.07 RETAIL EMPLOYEE PERMITS

- (1) Any permit issued by the Commission pursuant to T.C.A. § 57-3-~~203~~204(c) shall be valid for a period of five (5) years from its date of issuance.
- (2) Any person seeking a permit authorized pursuant to T.C.A. § 57-3-~~203~~204(c) shall submit an application in writing to the Commission on forms approved by the Commission.
- (3) No application for permit issued pursuant to T.C.A. § 57-3-~~203~~204(c) shall be considered unless the application is accompanied by a processing fee of twenty dollars (\$20.00).

Authority: T.C.A. §§ ~~57-1-201~~; 57-1-209; 57-3-104(c)(4); 57-3-204(c); 57-3-709. **Administrative History:**

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel	✓				<i>Mary McDaniel</i>
John Jones	✓				<i>John A Jones</i>
Bryan Kaegi	✓				<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission_(board/commission/ other authority) on 11/17/2015 (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: 03/02/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 04/20/2015

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 PUBLICATIONS

Date: 11.17.15

Signature: *E. Keith Bell*

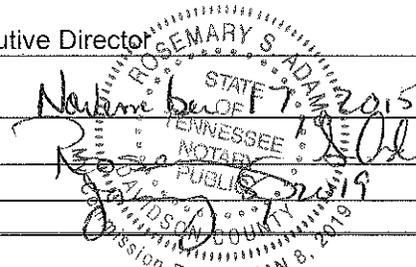
Name of Officer: E. Keith Bell

Title of Officer: TABC Executive Director

Subscribed and sworn to before me on: *November 17, 2015*

Notary Public Signature: *Rose Adams*

My commission expires on: *Jan 8, 2019*



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

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
Dec. 1, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/18/15

Effective on: 3/17/16

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alcoholic Beverage Commission

SUBJECT: Application for Server Permits; Fees

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 57-1-209 and 57-3-710

EFFECTIVE DATES: March 17, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule specifies that, in order for completion of an out-of-state server training program to meet the training requirements for issuance of a server permit in this state, the out-of-state program must have been certified by the state in which the program was taught and approved by this state.

The rule clarifies that the fee for a server permit is \$15.00 whether the server takes an out-of-state or in-state training program. Presently, the rule for servers who take an in-state program specifies a \$15.00 fee and the rule for servers who take an out-of-state program specifies a \$10.00 fee.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

Exemptions from requirements of T.C.A. §4-5-401, et seq.: T.C.A. §4-5-404 states that §4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

Economic Impact Statement for Proposed Rule

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

Any small business that operates server training programs in other states but have not been certified by that state. To the knowledge of the TABC, only one small business in Tennessee would be directly affected by this amendment.

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 projected administrative costs of small businesses with complying with the proposed rule would vary depending on such administrative costs associated with becoming certified in the state in which the small business server training program holding classes.

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

The proposed rule would require small business server training programs that are holding classes in states outside of Tennessee to be certified by the state in which the class is being held in order for a server taking such class to be eligible for a server permit in Tennessee.

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

The licensure requirements of the proposed rule are necessary to ensure that applicants for a server permit have attended and passed a certified training program that can be monitored and investigated by a state agency, and there are no less burdensome, intrusive, or costly alternative methods to ensure that such requirements are met.

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

This proposed rule is comparable to, and not significantly more or less burdensome than, other similar requirements of other state agencies.

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:

An exemption of small businesses would create a disparate and unfair impact on the persons and entities licensed by the commission and would negatively impact the duties and responsibilities of the commission.

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 is not anticipated to have an impact on local governments.

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Sequence Number: 12-16-15
 Rule ID(s): 6079
 File Date: 12/18/15
 Effective Date: 3/17/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person/Disc Acquisition Contact:	E. Keith Bell
Address:	Davy Crockett Tower; 500 James Robertson Parkway, 3rd Floor; Nashville, TN
Zip:	37243
Phone:	615.741.1602
Email:	Keith.Bell@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
0100-08	Rules for Professional Alcohol Server Training
Rule Number	Rule Title
0100-08-.03	Application for Server Permits

Chapter Number	Chapter Title
Rule Number	Rule Title

AMENDMENTS TO CHAPTER 0100-08-.03, APPLICATIONS FOR SERVER PERMITS,

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

0100-08-.03 APPLICATION FOR SERVER PERMITS

- (4) If an individual can produce evidence (i.e. ~~certificate~~ a Certificate of Completion) that he or she has successfully completed a ~~Commission-certified server training program~~, within one ~~(1)~~ year from the date of application in, ~~from another state then that has been certified by the state in which the program was taught and approved by the State of Tennessee~~, the Commission shall recognize such training. However, such individual shall still be required to pay the requisite ~~ten~~ fifteen dollar (~~\$40~~15.00) fee.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); ~~57-3-212(e); 57-3-710; 57-3-705(5); 57-4-201.~~

Administrative History:

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel	✓				<i>Mary McDaniel</i>
John Jones	✓				<i>John A Jones</i>
Bryan Kaegi	✓				<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission (board/commission/ other authority) on 11/17/2015 (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: 03/02/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 04/20/2015

Date: 11-17-15

Signature: *E. Keith Bell*

Name of Officer: E. Keith Bell

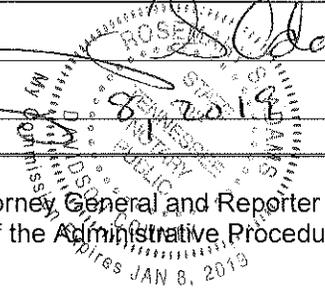
Title of Officer: TABC Executive Director

Subscribed and sworn to before me on: November 17, 2015

Notary Public Signature: *Rosemary Adams*

My commission expires on: Jan 8, 2018

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

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

Dec. 1, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/18/15

Effective on: 3/17/16

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Labor, Division of Workers' Compensation

SUBJECT: Deposition Fees

STATUTORY AUTHORITY: Tenn. Code Ann., Section 50-6-233(c)

EFFECTIVE DATES: March 22, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Presently, Tenn. Code Ann., Section 50-6-226(c) requires workers' compensation judges to determine the reasonableness of deposition fees charged by physicians. The current rules require that physicians charge their usual and customary fee for deposition time, not to exceed \$750 for the first hour and \$450 for the second or subsequent hour.

The proposed rule specifies that physicians may require pre-payment of up to \$750 for a deposition, with any overpayment to be refunded to the payer. The rule authorizes physicians to charge an additional fee of up to \$250 for a video deposition. The rule also specifies that physicians who are late to a deposition may only be reimbursed for their time in attendance and not for the entire time that was scheduled.

Regulatory Flexibility Addendum

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

1. The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule: The rule will affect small employers that fall under the Tennessee Workers' Compensation Laws, which would be employers with at least five employees, or for those in the construction industry at least one employee. There should be no additional costs associated with these rule changes.
2. The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record: There is no additional record keeping requirement or administrative cost associated with these rule changes.
3. A statement of the probable effect on impacted small businesses and consumers: These rules should not have any impact on consumers or small businesses.
4. A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business: There are no less burdensome methods to achieve the purposes and objectives of these rules.
5. Comparison of the proposed rule with any federal or state counterparts: None.
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: None.

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 proposed rule will have little, if any, impact on these entities.

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Sequence Number: 12-18-15
Rule ID(s): 6081
File Date: 2/23/15
Effective Date: 3/22/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission: Department of Labor and Workforce Development
Division: Workers' Compensation
Contact Person: Troy Haley
Address: 220 French Landing Drive Side 1-B, Nashville, Tennessee
Zip: 37243
Phone: (615) 532-0179
Email: troy.haley@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0800-02-16	Deposition Fees
Rule Number	Rule Title
0800-02-16-.01	Deposition Fees

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 0800-02-16 Deposition Fees

Rule 0800-02-16-.01: Deposition Fees

- (1) Licensed physicians may charge their usual and customary fee for providing testimony by deposition to be used in a workers' compensation claim, provided that such fee does not exceed seven hundred fifty dollars (\$750) for the first hour's time.
- (2) Depositions requiring over one (1) hour in duration shall be pro-rated at the licensed physician's usual and customary fee as set forth above, not to exceed four hundred fifty dollars (\$450) per hour for deposition time in excess of one (1) hour. Physicians shall not charge for the first quarter hour of preparation time. In instances requiring over one quarter hour of preparation time, a physician's preparation time in excess of one quarter hour shall be added to and included in the deposition time and billed at the same rates as for the deposition.
- (3) Physicians may require pre-payment of a maximum of \$750.00 for the deposition or in-person appearance; provided, that following the completion, the physician may bill for other amounts appropriately due. The payer may recover any amounts that were overpaid.
- (4) An additional fee of up to \$250 may be charged for a video deposition.
- (5) Physicians who are late for a deposition may only be reimbursed for the time in attendance and not from the time of the scheduled deposition.

Authority: T.C.A. §50-6-235(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 (board/commission/other authority) on 07/15/2015 (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: July 15, 2015

Signature: Abbie Hudgens

Name of Officer: Abbie Hudgens

Title of Officer: Administrator, Division of Workers' Compensation



Subscribed and sworn to before me on: July 15, 2015

Notary Public Signature: Darlene Carver McDonald

My commission expires on: May 8, 2017

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

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
12/15/2015 Date

Department of State Use Only

Filed with the Department of State on: 12/23/15

Effective on: 3/22/16

Tre Hargett
 Tre Hargett
 Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY: State Board of Education

SUBJECT: Graduation Requirements

STATUTORY AUTHORITY: Tenn. Code Ann., Section 49-1-617(b)

EFFECTIVE DATES: March 29, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The proposed rule adds Integrated Math I, II and III to the list of courses for which end-of-course exams must be given. The rule specifies that students are not required to pass any one exam, but instead must achieve a passing grade for the course.

The rule incorporates Public Chapter 256 of 2015 (Tenn. Code Ann., Section 49-1-617(b)), which allows LEAs to opt out of including a student's TCAP scores in the student's final grades if the LEA doesn't receive the scores at least five instructional days before the end of the school year.

Regulatory Flexibility Addendum

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

Not applicable.

Impact on Local Governments

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

This rule will have no impact on local governments.

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Sequence Number: 12-27-15
 Rule ID(s): 6098
 File Date: 12/30/15
 Effective Date: 3/29/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by 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.

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

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Tess Stovall
Address:	1 st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
Zip:	37243
Phone:	615-770-1190
Email:	Tess.Stovall@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

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

Substance of Proposed Rule

Substance of Proposed Rule

**CHAPTER 0520-01-03
MINIMUM REQUIREMENTS FOR THE APPROVAL
OF PUBLIC SCHOOLS**

Amendment

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

(d) Examinations.

1. ~~End-of-course examinations will be given in English I, English II, English III, Algebra I, Geometry, Algebra II, Integrated Math I, Integrated Math II, Integrated Math III, U.S. History, Biology I, Chemistry and Physics, upon development. Further, the results of these examinations will be factored into the student's grade at a percentage determined by the State Board of Education in accordance with T.C.A. §49-1-302. Students are not required to pass any one (1) examination, but instead need to achieve a passing score for the course average in accordance with the State Board of Education's uniform grading policy.~~
2. ~~Students would not be required to pass any one (1) examination, but instead would need to achieve a passing score for the course average in accordance with the State Board of Education's uniform grading policy. The weight of the end-of-course examination on the student's second semester average is as follows for entering ninth (9th) graders:~~
 - (i) Fall of 2009 and 2010 – twenty percent (20%);
 - (ii) Fall of 2011 and 2012 – twenty-five percent (25%); and
 - (iii) Fall of 2013 and thereafter - twenty-five percent (25%).

If a Local Education Agency (LEA) does not receive its students' end-of-course examination scores at least five (5) instructional days before the scheduled end of the course, then the LEA may choose not to include its students' end-of-course examination scores in the students' second semester average.
3. Students with disabilities will be included in regular classes to the degree possible and with appropriate support and accommodations. To earn a regular high school diploma, students with disabilities must earn the prescribed twenty-two (22) credit minimum. Students failing to earn a yearly grade of seventy (70) in a course that has an end-of-course test and whose disability adversely effects performance in that test will be allowed, through an approved process, to add to their end-of-course assessment scores by demonstrating the state identified core knowledge and skills contained within that course through an alternative performance-based assessment. The necessity for an alternative performance based assessment must be determined through the student's IEP. The alternative performance-based assessment will be evaluated using a state approved rubric.
4. When the mean of the teacher-assigned grades and the mean of the end-of-course assessment results are significantly different as determined by State Board of Education policy, the school must develop and implement strategies in the School Improvement Plan to ameliorate such differences. Until such time that the State Department of Education recommends, based upon an appropriate statistical analysis, and the State Board of Education approves an acceptable measure of disparity, schools and school systems should consider differences between ten (10) and fifteen (15) or more points to be too large

and develop and implement strategies through the School Improvement Plan to ameliorate such differences.

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chancey	X				
Edwards	X				
Hartgrove	X				
Johnson	X				
Pearre	X				
Roberts	X				
Rolston	X				
Tucker	X				
Troutt	X				
Student Member				X	

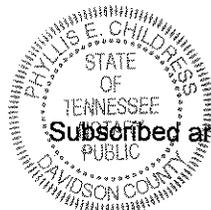
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 10/23/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11/30/15

Signature: [Handwritten Signature]

Name of Officer: Dr. Sara Heyburn

Title of Officer: Executive Director



Subscribed and sworn to before me on: 11/30/15

Notary Public Signature: [Handwritten Signature]

MY COMMISSION EXPIRES: January 9, 2016

My commission expires on: _____

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

[Handwritten Signature]
Herbert H. Slatery III
Attorney General and Reporter

12/15/2015
Date

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Filed with the Department of State on: 12/30/15

Effective on: 3/29/16

[Handwritten Signature]

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Commerce and Insurance, Fire Prevention Division

SUBJECT: Restroom Equity

STATUTORY AUTHORITY: Tenn. Code Ann., Section 68-120-506

EFFECTIVE DATES: March 8, 2016, through June 30, 2016

FISCAL IMPACT: Minimal

STAFF RULE ABSTRACT: This proposed rule replaces the current requirement of a minimum ratio of two water closets for women for each water closet, single urinal, or 20" of trough urinal for men with the requirements of the 2012 Plumbing Code for determining the number of water closets in public places. The rule also makes several corrections to citations in the rules.

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. Types and estimated number of small businesses directly affected:

Small businesses where the public congregates for entertainment purposes will be affected by the promulgation of these rules.

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

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

3. Probable effect on small businesses:

There will be minimal effect as the proposed rules are necessary to reflect the Tennessee Equitable Restroom Act and to mirror the building codes which have been previously adopted and are being enforced.

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

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

5. Comparison with federal and state counterparts:

29 C.F.R. 1910.141 – Sanitation

This section is only applicable to permanent places of employment but sets for the required number of toilet facilities which must be present in an employment location.

The International Building Code (IBC) published by the International Code Council (ICC) sets forth the required number of toilet facilities which must be present in public places.

6. Effect of possible exemption of small businesses:

There are no possible exemptions for small businesses to the requirements except for those exemptions specifically set forth in the adopted rules and in the applicable statute.

Impact on Local Governments

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

The proposed rule will impact local governments.

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Sequence Number: 12-08-15
Rule ID(s): 6075
File Date: 12/9/15
Effective Date: 3/8/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by 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.

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

Agency/Board/Commission:	Tennessee Department of Commerce and Insurance
Division:	Fire Prevention
Contact Person:	Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement
Address:	500 James Robertson Parkway, Davy Crockett Tower, 8 th Floor
Zip:	37243
Phone:	615-741-3899
Email:	Joseph.underwood@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
0780-02-18	Tennessee Equitable Restroom Act Rules and Regulations
Rule Number	Rule Title
0780-02-18-.01	Purpose
0780-02-18-.02	Jurisdiction and Effective Dates
0780-02-18-.03	Restroom Requirements
0780-02-18-.04	Enforcement and Inspections

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

**CHAPTER 0780-2-18
TENNESSEE EQUITABLE RESTROOM ACT RULES AND REGULATIONS**

TABLE OF CONTENTS

0780-2-18-01	Purpose	0780-2-18-03	Restroom Requirements
0780-2-18-02	Jurisdiction and Effective Dates	0780-2-18-04	Enforcement and Inspections

0780-02-18-01 PURPOSE.

~~(1) The purpose of this chapter is to implement the Tennessee Equitable Restroom Act T.C.A. §§ 68-120-501, et seq., and mitigate the lengthy delays which women face in gaining access to restroom facilities in public places.~~

(1) The purpose of this chapter is to implement the Tennessee Equitable Restroom Act T.C.A. §§ 68-120-501, et seq., and mitigate the lengthy delays which women face in gaining access to restroom facilities in public places.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6) and 68-120-506. *Administrative History:* Original rule filed September 12, 1996; November 26, 1996.

0780-02-18-02 JURISDICTION AND EFFECTIVE DATES.

(1) Application. This chapter shall apply to the following facilities where the public congregates:

- (a) sports and entertainment arenas;
- (b) musical amphitheaters;
- (c) stadiums;
- (d) community and convention halls;
- (e) amusement facilities;
- (f) zoos; and
- (g) specialty event centers located in public parks.

(2) Exemptions. This chapter does not apply to the following:

- (a) Hotels. For purposes of this regulation, hotel means an establishment as defined in ~~T.C.A. § 68-14-302(5);~~ T.C.A. § 68-14-302(6);
- (b) Food services establishment, as defined in ~~T.C.A. § 68-14-302(4)~~ T.C.A. § 68-14-703(9)(A);
- (c) A state or local park with a seating capacity for less than two hundred fifty (250) persons; or
- (d) Automobile race tracks where portable facilities can be located and which were in existence prior to July 1, 1985.

(3) Effective dates. The effective date for this chapter is as follows:

(Rule 0780-2-18-.02, continued)

- (a) New facilities where the public congregates. Implementation of this regulation will be based upon contracts for design or construction executed on or after the effective date of these rules.
- (b) Existing facilities where the public congregates. Implementation of this regulation will be based upon contracts for the design or construction of the renovation executed on or after the effective date of these rules. An existing facility where the public congregates will be considered to be renovated if:
 - 1. Its rehabilitation requires more than fifty percent (50%) of the gross floor area or volume of the entire building to be rebuilt. Cosmetic work such as painting, wall covering, wall paneling, floor covering, and suspended ceiling work are not included.
 - 2. An addition is made to an existing facility where the public congregates. The requirements of this regulation shall apply only to the portion of the building which is being renovated.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-504, 68-120-505 and 68-120-506. **Administrative History:** *Original rule filed September 12, 1996; November 26, 1996.*

0780-02-18-.03 RESTROOM REQUIREMENTS.

- (1) ~~More water closets shall be provided for women than for men by a minimum ratio of two (2) water closets for women to each water closet for men; or each single use urinal for men; or for twenty (20) inches of trough urinal for men.~~

~~The 1994 Standard Plumbing Code, Section 407, edition of the building construction standard(s) adopted in Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) shall be used/ utilized to determine the minimum number of water closets and plumbing fixtures required for men for restroom facilities in public places.~~

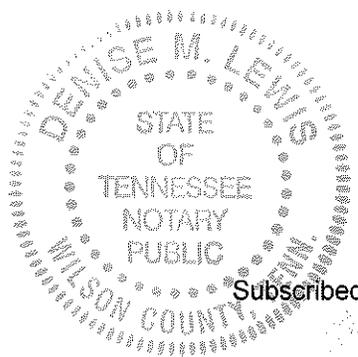
Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-503 and 68-120-506. **Administrative History:** *Original rule filed September 12, 1996; November 26, 1996.*

0780-02-18-.04 ENFORCEMENT AND INSPECTIONS.

- (1) The responsible authority for the enforcement of these regulations shall be the local building inspector and:
 - (a) The State Building Commission with respect to State public buildings as provided in T.C.A. § 4-15-106(a); and ~~T.C.A. § 4-15-106(a);~~
 - (b) The State Fire Marshal with respect to public buildings reviewed under the authority of T.C.A. § 68-120-101(d); ~~T.C.A. § 68-120-101(d);~~

Authority: T.C.A. §§ 68-120-203(3), 68-120-502(6) and 68-120-506. **Administrative History:** *Original rule filed September 12, 1996; November 26, 1996.*

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner on 07/25/2015 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



My Commission Expires

Date: 7/24/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 7/24/15

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/2016

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

Herbert H. Slattery III
Herbert H. Slattery III
Attorney General and Reporter
10/20/2015
Date

Department of State Use Only

Filed with the Department of State on: 12/9/15

Effective on: 3/8/16

Tre Hargett
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Commerce and Insurance, Division of Regulatory Boards

SUBJECT: Private Protective Services; Fingerprinting

STATUTORY AUTHORITY: Tenn. Code Ann., Section 62-35-129

EFFECTIVE DATES: March 3, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Tenn. Code Ann., Section 62-35-105(a)(4)(E) requires applicants for licensure under the Private Protective Services Licensing and Regulatory Act to submit three sets of fingerprints. Tenn. Code Ann., Section 62-35-107(a) requires that the fingerprints be used to conduct a criminal background check on the applicant. The current rules require that applicants submit physical, or "rolled", sets of fingerprints.

This proposed rule generally replaces rolled fingerprints with electronic fingerprint submission; provided, that the state contracts with an electronic fingerprint submission company that will take the fingerprints, submit the fingerprints electronically to the TBI and FBI, and provide the Commissioner with a report based on the fingerprints. If there is not an electronic fingerprint submission company contracted with the state, applicants will submit rolled fingerprints. Additionally, rolled fingerprints will be accepted for good cause shown.

According to the Department, the rule change is necessary because the TBI has notified the Department that it will no longer accept physical fingerprint cards from the Department.

Regulatory Flexibility Addendum

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

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

This rule would affect any small business operating as contract security companies and private security organizations. There are currently 1,106 contract security companies and 558 proprietary security organizations 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:

This amendment could create a cost to travel to a location to obtain an electronic fingerprint. However, some licensees may be able to provide fingerprints to an electronic fingerprinting vendor electronically without the need to travel to a location.

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

Small businesses would potentially decrease their costs in processing fingerprints by \$12 but would have to do such through a private designated vendor. These rules will have no effect on consumers.

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

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

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

There are no federal counterparts to the issues addressed by these rules.

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

An exemption of small businesses from the aforementioned requirements would create an increased cost to each individual applicant and create an additional administrative process upon the agency, decreasing its standardization and efficiency in processing applications.

Impact on Local Governments

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

There is no expected impact on local government by the promulgation of this amendment.

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Sequence Number: 12-4-15
Rule ID(s): C0073
File Date: 12-4-15
Effective Date: 3-3-16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by 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.

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

Agency/Board/Commission:	Private Protective Services
Division:	Division of Regulatory Boards Department of Commerce and Insurance
Contact Person:	Anthony M. Glandorf
Address:	Davy Crockett Tower 500 James Robertson Pkwy Nashville, Tennessee
Zip:	37243
Phone:	615-741-3072
Email:	Anthony.glandorf@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
0780-5-2	Private Protective Services
Rule Number	Rule Title
0780-5-2-.05	Fingerprinting

Chapter 0780-5-2-.05

Private Protective Services

Amendments

Rule 0780-05-02-.05 is amended by deleting the substance of the rule in its entirety and substituting instead the following language:

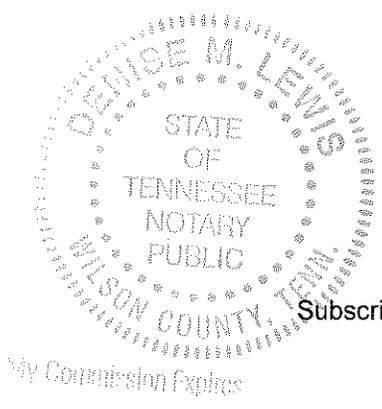
- ~~(1) All sets of classifiable fingerprints required by the Act or this chapter shall be furnished at the expense of the applicant and shall be rolled by a qualified person acceptable to the Commissioner or the Commissioner's designee.~~
- ~~(2) In the event an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable by nature then the Commissioner may require the applicant to cease all functions as a security guard officer.~~
- (1) Any person required to submit classifiable fingerprints by the Act or this chapter shall be deemed to have supplied the required sets of fingerprints if that applicant causes a private company contracted by the State to electronically transmit that applicant's classifiable prints directly to the TBI and FBI to forward an electronic report based on that applicant's fingerprints to the Commissioner.
- (2) Any person required to submit fingerprints by the Act or this chapter shall make the arrangements for the processing of his or her fingerprints with the company contracted by the State to provide electronic fingerprinting services directly and shall be responsible for the payment of any fees associated with the processing of fingerprints to the respective agent authorized by the TBI and FBI.
 - (a) Provided, however, that the Commissioner or the Commissioner's designee may authorize the submission of three (3) sets of classifiable physical fingerprint cards, at the expense of the applicant and rolled by a qualified person acceptable to the Commissioner or the Commissioner's designee, for good cause.
- (3) In the event an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable by nature then the Commissioner may require the applicant to cease all functions as a security guard officer and the applicant shall submit new fingerprints together with any additional fee(s) charged by the TBI and/or FBI for processing the new fingerprints.
- (4) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the Commissioner all processing fees established by the TBI and FBI.
- (5) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
- (6) Applicants shall in all cases be responsible for paying application fees as established by the Commissioner regardless of the manner of fingerprinting.

Authority: T.C.A. §§ 62-35-105(a)(4)(E), 62-35-116(7), 62-35-119(a)(1)(B) and (C), 62-35-129(b), and 62-35-130(a).

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

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



Date: 11/3/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 11/3/15

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/16

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

Herbert H. Slatery III

Herbert H. Slatery III
Attorney General and Reporter

11/24/2015
Date

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Filed with the Department of State on: 12-4-15

Effective on: 3-3-16

Tre Hargett

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Commerce and Insurance, Division of Regulatory Boards

SUBJECT: Locksmiths; Fingerprinting

STATUTORY AUTHORITY: Tenn. Code Ann., Section 62-11-106(1)

EFFECTIVE DATES: March 3, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Tenn. Code Ann., Section 62-11-111(a)(2) requires applicants for licensure under the Locksmith Licensing Act of 2006 to submit sets of fingerprints on cards. Tenn. Code Ann., Section 62-11-106(2)(A)(i) and (5) require the fingerprints be used to conduct a criminal background check on the applicant. The current rules permit applicants to submit physical, or "rolled", or electronically scanned sets of fingerprints.

This proposed rule generally removes the option of submitting rolled fingerprints so that only electronic fingerprint submission will be accepted; provided, that the state contracts with an electronic fingerprint submission company that will take the fingerprints, submit the fingerprints electronically to the TBI and FBI, and provide the Commissioner with a report based on the fingerprints. If there is not an electronic fingerprint submission company contracted with the state, applicants will submit rolled fingerprints. Additionally, rolled fingerprints will be accepted for good cause shown.

According to the Department, the rule change is necessary because the TBI has notified the Department that it will no longer accept physical fingerprint cards from the Department.

Regulatory Flexibility Addendum

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

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

This rule would affect any small business providing locksmithing services. There are currently 2370 licensed Locksmiths and 285 licensed Locksmith Apprentices 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:

This amendment could create a cost to travel to a location to obtain an electronic fingerprint. However, some licensees may be able to provide fingerprints to an electronic fingerprinting vendor electronically without the need to travel to a location.

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

Small businesses would potentially decrease their costs in processing fingerprints by \$12 but would have to do such through a private designated vendor. These rules will have no effect on consumers.

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

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses.

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

There are no federal counterparts to the issues addressed by these rules.

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

An exemption of small businesses from the aforementioned requirements would create an increased cost to each individual applicant and create an additional administrative process upon the agency, decreasing its standardization and efficiency in processing applications.

Impact on Local Governments

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

There is no expected impact on local government by the promulgation of these rules.

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Sequence Number: 12-05-15
Rule ID(s): 6074
File Date: 12-4-15
Effective Date: 3-3-16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by 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.

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

Agency/Board/Commission:	Locksmiths
Division:	Division of Regulatory Boards Department of Commerce and Insurance
Contact Person:	Anthony M. Glandorf
Address:	Davy Crockett Tower 500 James Robertson Pkwy Nashville, Tennessee
Zip:	37243
Phone:	615-741-3072
Email:	Anthony.glandorf@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
0780-05-13	Locksmiths
Rule Number	Rule Title
0780-05-13-.03	Application for License or Registration
0780-05-13-.06	Fees
0780-05-13-.15	Fingerprinting

Locksmiths

Amendments

0780-05-13

Rule 0780-05-13-.03(3)(b) is amended by deleting the subparagraph in its entirety and substituting instead the following language:

~~(b) Two (2) completed fingerprint cards or a copy of the receipt for electronically scanned prints. Fingerprints must be rolled nail to nail by a qualified, trained technician on the fingerprint cards provided by this office. The cards must be fully completed and signed and all questions in the blocks at the top of the card must be answered.~~

(b) Classifiable fingerprints in such form as required by the Commissioner.

Authority: T.C.A. §§ 62-11-106, 62-11-108, 62-11-111, 62-11-112, and 62-11-114.

Rule 0780-05-13-.06(13) is amended by deleting the paragraph in its entirety and substituting instead the following language:

~~(13) Fingerprint fee is \$60.00 or as set by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation.~~

(13) Fingerprints As set by the TBI, FBI, or company contracted by the State to electronically transmit fingerprints

Authority: T.C.A. §§ 62-11-106, 62-11-111, 62-11-112, and 62-11-114.

Locksmiths

New Rules

0780-05-13

CHAPTER 0780-5-13
LOCKSMITHS
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0780-5-13-.01 Purpose	0780-5-13-.09 Continuing Education
0780-5-13-.02 Definitions	0780-5-13-.10 Qualifying and Continuing Education Providers
0780-5-13-.03 Application for License or Registration	0780-5-13-.11 Civil Penalties
0780-5-13-.04 Application Requirements	0780-5-13-.12 Submission of Information
0780-5-13-.05 Renewal of Licenses and Registrations	0780-5-13-.13 Standards of Practice
0780-5-13-.06 Fees	0780-5-13-.14 Code of Conduct
0780-5-13-.07 Qualifying Education	0780-5-13-.15 Fingerprinting
0780-5-13-.08 Experience	

0780-05-13 is amended by adding the following language as a new rule:

0780-05-13-.15 Fingerprinting.

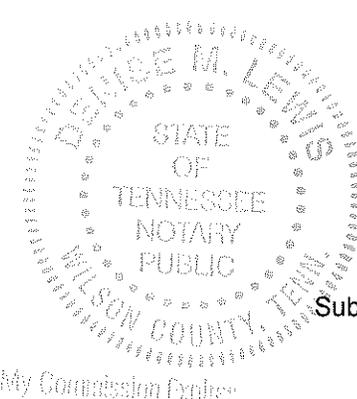
- (1) Any person required to submit classifiable fingerprints by the Locksmith Licensing Act of 2006 shall be deemed to have supplied the required sets of fingerprints if that applicant causes a private company contracted by the State to electronically transmit that applicant's classifiable prints directly to the TBI and FBI to forward an electronic report based on that applicant's fingerprints to the Commissioner.
- (2) Any person required to submit fingerprints by the Locksmith Licensing Act of 2006 shall make the arrangements for the processing of his or her fingerprints with the company contracted by the State to provide electronic fingerprinting services directly and shall be responsible for the payment of any fees associated with processing of fingerprints to the respective agent authorized by the TBI and FBI.
 - (a) Provided, however, that the Commissioner or the Commissioner's designee may authorize the submission of three (3) sets of classifiable physical fingerprint cards, at the expense of the applicant and rolled by a qualified person acceptable to the Commissioner or the Commissioner's designee, for good cause.
- (3) In the event an applicant furnishes unclassifiable fingerprints or fingerprints that are unclassifiable by nature then the Commissioner may require the applicant to cease all functions as a locksmith or locksmith apprentice and the applicant shall submit new fingerprints together with any additional fee(s) charged by the TBI and/or FBI for processing the new fingerprints.
- (4) In the event the State no longer contracts with any company to provide an electronic fingerprinting service, then the applicant shall submit three (3) classifiable TBI and FBI fingerprint cards with his or her application and shall pay the Commissioner all processing fees established by the TBI and FBI.
- (5) All sets of classifiable fingerprints required by this rule shall be furnished at the expense of the applicant.
- (6) Applicants shall in all cases be responsible for paying application fees as established by the Commissioner regardless of the manner of fingerprinting.

Authority T.C.A. §§ 62-11-106, 62-11-108, 62-11-111, 62-11-112, and 62-11-114.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

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



Date: 11/3/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 11/3/15

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/16

My Commission Expires

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

Herbert H. Stately III
 Herbert H. Stately III
 Attorney General and Reporter
11/24/2015 Date

Department of State Use Only

Filed with the Department of State on: 12-4-15

Effective on: 3-3-16

Tre Hargett
 Tre Hargett
 Secretary of State

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 PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Health, Division of Communicable and Environmental Disease and Emergency Preparedness, AIDS Program Division

SUBJECT: AIDS Drugs Assistance Program Rules

STATUTORY AUTHORITY: 42 U.S.C. Sections 300ff et seq., as amended

EFFECTIVE DATES: December 23, 2015, through June 20, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: Under the previous rule, a Tennessee resident with HIV needed an annual income of no more than 300 percent of the federal poverty level and no more than \$8,000 in liquid assets in order to qualify for Ryan White Program services. According to the Department, due to a reduced need for certain high cost services there was an excess amount of funding remaining in the program that would have reverted to the federal government if not reallocated by December 31, 2015.

The emergency rule replaces the previous economic eligibility requirements with authorization for the department to set the income eligibility criteria based on Departmental reviews of available funding made twice yearly. The Department will notify current clients of the income eligibility requirements and post the requirements on its web site. According to the Department, flexibility in setting the income eligibility requirements for program participation will allow the Department to more fully allocate funding and avoid the possibility of a reversion of funds.

Impact on Local Governments

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

The proposed rule amendments should not have a financial impact on local governments.

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, or 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 businesses.**

These rules do not affect compliance or reporting requirements for small businesses.

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

These rules do not affect schedules or reporting requirements for small businesses.

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

These rules do not consolidate or simplify compliance or reporting requirements for small businesses.

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

These rules do not establish performance standards for small businesses.

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

These rules do not stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Communicable and Environmental Disease and Emergency Preparedness

Rulemaking hearing date: N/A

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

HIV/Aids patients as well as health care providers including social service agencies working with HIV/AIDS patients will benefit from the proposed rule amendments.

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

The proposed rule amendments will not affect reporting, recordkeeping or administrative costs.

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

The rule amendments will affect both consumers and small businesses as the rule amendments will lead to increased access to lifesaving medications, decreased emergency room visits and decreased hospital admissions.

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

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose or objectives of the rule amendments.

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

Federal: The rule amendments are consistent with 42 U.S.C. 300ff.

State: None.

- 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.**

N/A

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

For Department of State Use Only

Sequence Number: 12-20-15
 Rule ID(s): 6090
 File Date (effective date): 12/23/15
 End Effective Date: 6/20/16

Emergency Rule Filing Form

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

Agency/Board/Commission:	Tennessee Department of Health
Division:	Division of Communicable and Environmental Disease and Emergency Preparedness, AIDS Program Division
Contact Person:	Mary Kennedy
Address:	710 James Robertson Parkway, 5th Floor, Nashville, TN 37243
Zip:	37234
Phone:	(615) 253-4878
Email:	mary.kennedy@tn.gov

Rule Type:

Emergency Rule

Revision Type (check all that apply):

Amendment
 New
 Repeal

Statement of Necessity:

The Ryan White HIV/AIDS Program (RWHAP) is authorized and funded under the Public Health Service Act, 42 U.S. Code, §300ff *et seq.*, as amended by the Ryan White HIV/AIDS Treatment Extension Act of 2009 (Public Law 111-87, October 30, 2009). Pursuant thereto, the Tennessee Department of Health receives grant funding, of which 75% must be used for direct services to individuals with HIV. Those funds have historically been used to provide drugs to treat the disease and to assist in the payment of insurance premiums for infected individuals. With more insured clients, and with the drug rebates the department has received as a result of the 340b drug pricing program, the department finds a surplus in its grant budget for the grant year ending March 31, 2016. Rather than return funds to the federal government, the department seeks a higher economic eligibility level to increase the number of potential eligible service recipients as 23 other states have done; to achieve this funds must be obligated by January 31, 2016. Available data indicate that service recipients have less need of emergency room and other hospital services, and lower viral loads, which lowers the risk of the spread of disease in the community.

Amendments to Rule Chapter 1200-14-02 are necessary to allow the department to raise the economic eligibility level. However, these amendments must be in place on or before December 31, 2015 to avoid loss of the surplus unexpended funds to the federal government. Therefore, the department finds that adoption of the amendments as emergency rules is necessary under Tenn. Code Ann. § 4-5-208(a)(4), which permits emergency rulemaking if the amendments are required by an agency of the federal government and adoption of the rules through ordinary rulemaking procedures might result in the loss of federal funds.

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

Chapter Number	Chapter Title
1200-14-02	Aids Drugs Assistance Program Rules
Rule Number	Rule Title
1200-14-02-.03	Eligibility Criteria
1200-14-02-.04	Program Limited to Available Funds

**RULES
OF
THE DEPARTMENT OF HEALTH
AIDS PROGRAM DIVISION**

**CHAPTER 1200-14-02
AIDS DRUG ASSISTANCE PROGRAM RULES**

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1200-12-02-.01	Definitions	1200-14-02-.05	Certification of Coverage by Program
1200-14-02-.02	Purpose and Administration of ADAP Funds	1200-14-02-.06	Reconsideration of Denial
1200-14-02-.03	Eligibility Criteria	1200-14-02-.07	Confidentiality of Records
1200-14-02-.04	Program Limited to Available Funds		

1200-14-02-.01 DEFINITIONS.

- (1) For the purpose of these regulations the terms used herein are defined as follows:
- (a) "ADAP" means the AIDS Drug Assistance Program, the federal earmark in the Ryan White Part B grant providing funding for HIV Clients' medications, which encompasses HDAP and IAP.
 - (b) "AIDS" means Acquired Immune Deficiency Syndrome or Acquired Immunodeficiency Syndrome.
 - (c) "Certification" means the determination that an applicant meets the eligibility criteria to receive assistance through the Ryan White Program.
 - (d) "Client" means a person enrolled in the Ryan White Program.
 - (e) "Department" means the Tennessee Department of Health.
 - (f) "FDA" means the U.S. Food and Drug Administration.
 - (g) "Formulary" means the HDAP Formulary, which lists the FDA approved medications provided by Tennessee's HDAP Program.
 - (h) "HDAP" means the HIV Drug Assistance Program, a program through which the Department provides Formulary medications to Clients.
 - (i) "HIV" means Human Immunodeficiency Virus.
 - (j) "IAP" means Insurance Assistance Program, a program through which the Department provides assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.
 - (k) "Priority Group" means those eligible for temporary emergency access to HDAP or IAP services if there is a waiting list.
 - (l) "Program Director" means the Department employee responsible for the overall management of grants and programs in the HIV/AIDS/STD Section of the Department.
 - (m) "Provider" means a health care professional with prescriptive authority, licensed pursuant to Title 63 of the Tennessee Code.

(Rule 1200-14-02-.01, continued)

- (n) "Ryan White Program" means the Departmental program that receives federal Ryan White Part B funding and provides medical services, medications, and support services to eligible individuals.
- (o) "TennCare" means Tennessee's State Medicaid Program.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.02 PURPOSE AND ADMINISTRATION OF ADAP FUNDS.

(1) HDAP

Through HDAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Determine which medications shall be included in the Formulary;
- (c) Purchase Formulary medications for Clients;
- (d) Contract licensed pharmacists to Provide Formulary medications to Clients pursuant to prescriptions by providers; and
- (e) Coordinate with TennCare to ensure that Clients do not receive benefits from both programs simultaneously.

(2) IAP

Through IAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Provide assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Amendment filed December 29, 1995; effective April 29, 1996. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.03 ELIGIBILITY CRITERIA.

- ~~(1) To qualify for Ryan White Program services, an applicant must submit a completed and signed Ryan White Program application including evidence that applicant meets the following eligibility requirements:~~
 - ~~(a) Is a resident of Tennessee;~~
 - ~~(b) Meets the generally accepted medical criteria for HIV disease;~~
 - ~~(c) Has an annual income of less than 300% of the current year's federal poverty level;~~

(Rule 1200-14-02-.03, continued)

- ~~(d) Has no more than \$8,000.00 in liquid assets; and~~
- ~~(e) For ADAP applicants, presents certification that applicant has no other source of third party reimbursement for prescription drugs.~~
- (1) To qualify for Ryan White Program services, an applicant must submit a completed and signed Ryan White Program application including evidence that applicant meets the following eligibility requirements:
 - (a) Is a resident of Tennessee;
 - (b) Meets the generally accepted medical criteria for HIV disease;
 - (c) An income level and total liquid assets that do not exceed the limits set by the Department and posted semiannually on its website; and
 - (d) For ADAP applicants, presents certification that applicant has no other source of third party reimbursement for prescription drugs.
- (2) For purposes of establishing income and assets the following shall apply:
 - (a) For applicants 18 years and older, only the income and assets of the applicant and the applicant's legal spouse with whom the applicant resides will be considered.
 - (b) For applicants less than 18 years of age, the income and assets of the applicant and the legal parent or parents with whom the applicant resides will be considered. Income and assets of step-parents and legal guardians shall not be considered.
- (3) In order to continue to receive any Ryan White Program services, a Client must submit the following every six (6) months:
 - (a) Confirmation that the Client continues to meet the eligibility criteria; and
 - (b) A completed and signed recertification application.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.04 PROGRAM LIMITED TO AVAILABLE FUNDS.

- (1) The availability of funds limits the number of Clients receiving ADAP services. The Department shall cease approval of applications if funding is insufficient to sustain additional recipients.
- (2) Current Clients shall have priority for funding.
- (3) Eligible applicants who are denied ADAP enrollment due to a funding shortage shall be placed on a waiting list managed by the Ryan White Program.
- (4) Individuals on the ADAP waiting list in one of the following Priority Groups shall be provided with temporary emergency ADAP services as follows:
 - (a) Pregnant women shall be eligible for ADAP services during pregnancy and up to 90 days post partum; and

(Rule 1200-14-02-.03, continued)

- (b) Infants up to one year of age shall be eligible for ADAP services for up to 180 days of coverage.
- (5) The Department shall review available funding by March 31 and September 30 of each year, at which time it shall notify all current clients of the maximum income level and liquid assets for program eligibility. The Department will also post this information on its website.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.05 CERTIFICATION OF COVERAGE BY PROGRAM.

- (1) The Department will notify applicants whether certification of coverage has been awarded. Applicants for whom coverage is certified are not guaranteed ADAP services beyond the federal fiscal year of the current grant.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.06 RECONSIDERATION OF DENIAL.

- (1) Applicants denied or removed from participation in HDAP or IAP may request reconsideration.
 - (a) The applicant must request reconsideration in writing, directed to the Program Director, within twenty one (21) calendar days of denial or removal. The Program Director will issue a reconsidered decision in writing within fourteen (14) days of the request for reconsideration. The Program Director's review is limited to a determination of whether or not the applicant meets eligibility criteria. The decision of the Program Director is final.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.07 CONFIDENTIALITY OF RECORDS.

All applicant or recipient identifying information or records of the ADAP program shall be considered confidential as required by the federal legislation authorizing funding assistance to the program. Such information or records shall not be disclosed by the program except for those purposes for which a signed release is provided by the person served. All correspondence containing the identity of program applicants or recipients shall be sealed and marked "CONFIDENTIAL".

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

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

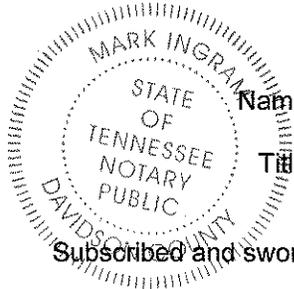
Date: 12.11.15

Signature: _____

Name of Officer: Mary Kennedy

Deputy General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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

Herbert H. Slatery III
 Herbert H. Slatery III
 Attorney General and Reporter
12/22/2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/23/15

Effective for: 180 *days

Effective through: 6/20/16

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

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Health, Division of Communicable and Environmental Disease and Emergency Preparedness, AIDS Program Division

SUBJECT: AIDS Drugs Assistance Program Rules

STATUTORY AUTHORITY: 42 U.S.C. Sections 300ff et seq., as amended

EFFECTIVE DATES: March 22, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This proposed rule makes permanent the changes described in the Abstract for the Department's emergency rule that is on the Joint Committee's Agenda this month.

Under the previous rule, a Tennessee resident with HIV needed an annual income of no more than 300 percent of the federal poverty level and no more than \$8,000 in liquid assets in order to qualify for Ryan White Program services. According to the Department, due to a reduced need for certain high cost services there was an excess amount of funding remaining in the program that would have reverted to the federal government if not reallocated by December 31, 2015.

The proposed rule replaces the previous economic eligibility requirements with authorization for the department to set the income eligibility criteria based on Departmental reviews of available funding made twice yearly. The Department will notify current clients of the income eligibility requirements and post the requirements on its web site. According to the Department, flexibility in setting the income eligibility requirements for program participation will allow the Department to more fully allocate funding and avoid the possibility of a reversion of funds.

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 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, or 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 businesses.**

These rules do not affect compliance or reporting requirements for small businesses.

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

These rules do not affect schedules or reporting requirements for small businesses.

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

These rules do not consolidate or simplify compliance or reporting requirements for small businesses.

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

These rules do not establish performance standards for small businesses.

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

These rules do not stifle entrepreneurial activity, curb innovation, or increase costs.

STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

Name of Board, Committee or Council: Communicable and Environmental Disease and Emergency Preparedness

Rulemaking hearing date: N/A

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

HIV/Aids patients as well as health care providers including social service agencies working with HIV/AIDS patients will benefit from the proposed rule amendments.

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

The proposed rule amendments will not affect reporting, recordkeeping or administrative costs.

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

The rule amendments will affect both consumers and small businesses as the rule amendments will lead to increased access to lifesaving medications, decreased emergency room visits and decreased hospital admissions.

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

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose or objectives of the rule amendments.

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

Federal: The rule amendments are consistent with 42 U.S.C. § 300ff.

State: None.

- 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.**

N/A

Impact on Local Governments

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

The proposed rule amendments should not have a financial impact on local governments.

**Department of State
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Sequence Number: 12-21-15
Rule ID(s): 6091
File Date: 12/23/15
Effective Date: 3/22/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by 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.

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

Agency/Board/Commission:	Tennessee Department of Health
Division:	Division of Communicable and Environmental Disease and Emergency Preparedness, AIDS Program Division
Contact Person:	Mary Kennedy
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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
1200-14-02	Aids Drugs Assistance Program Rules
Rule Number	Rule Title
1200-14-02-.03	Eligibility Criteria
1200-14-02-.04	Program Limited to Available Funds

**RULES
OF
THE DEPARTMENT OF HEALTH
AIDS PROGRAM DIVISION**

**CHAPTER 1200-14-02
AIDS DRUG ASSISTANCE PROGRAM RULES**

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1200-14-02-.03	Eligibility Criteria	1200-14-02-.07	Confidentiality of Records
1200-14-02-.04	Program Limited to Available Funds		

1200-14-02-.01 DEFINITIONS.

- (1) For the purpose of these regulations the terms used herein are defined as follows:
- (a) "ADAP" means the AIDS Drug Assistance Program, the federal earmark in the Ryan White Part B grant providing funding for HIV Clients' medications, which encompasses HDAP and IAP.
 - (b) "AIDS" means Acquired Immune Deficiency Syndrome or Acquired Immunodeficiency Syndrome.
 - (c) "Certification" means the determination that an applicant meets the eligibility criteria to receive assistance through the Ryan White Program.
 - (d) "Client" means a person enrolled in the Ryan White Program.
 - (e) "Department" means the Tennessee Department of Health.
 - (f) "FDA" means the U.S. Food and Drug Administration.
 - (g) "Formulary" means the HDAP Formulary, which lists the FDA approved medications provided by Tennessee's HDAP Program.
 - (h) "HDAP" means the HIV Drug Assistance Program, a program through which the Department provides Formulary medications to Clients.
 - (i) "HIV" means Human Immunodeficiency Virus.
 - (j) "IAP" means Insurance Assistance Program, a program through which the Department provides assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.
 - (k) "Priority Group" means those eligible for temporary emergency access to HDAP or IAP services if there is a waiting list.
 - (l) "Program Director" means the Department employee responsible for the overall management of grants and programs in the HIV/AIDS/STD Section of the Department.
 - (m) "Provider" means a health care professional with prescriptive authority, licensed pursuant to Title 63 of the Tennessee Code.

(Rule 1200-14-02-.01, continued)

- (n) "Ryan White Program" means the Departmental program that receives federal Ryan White Part B funding and provides medical services, medications, and support services to eligible individuals.
- (o) "TennCare" means Tennessee's State Medicaid Program.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.02 PURPOSE AND ADMINISTRATION OF ADAP FUNDS.

(1) HDAP

Through HDAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Determine which medications shall be included in the Formulary;
- (c) Purchase Formulary medications for Clients;
- (d) Contract licensed pharmacists to Provide Formulary medications to Clients pursuant to prescriptions by providers; and
- (e) Coordinate with TennCare to ensure that Clients do not receive benefits from both programs simultaneously.

(2) IAP

Through IAP, the Department shall:

- (a) Provide applications and instructional forms regarding eligibility criteria, the Formulary, and other guidelines for participation;
- (b) Provide assistance paying health insurance premiums, co-payments, and/or deductibles for eligible Clients.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Amendment filed December 29, 1995; effective April 29, 1996. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.03 ELIGIBILITY CRITERIA.

- ~~(1) To qualify for Ryan White Program services, an applicant must submit a completed and signed Ryan White Program application including evidence that applicant meets the following eligibility requirements:~~
 - ~~(a) Is a resident of Tennessee;~~
 - ~~(b) Meets the generally accepted medical criteria for HIV disease;~~
 - ~~(c) Has an annual income of less than 300% of the current year's federal poverty level;~~

(Rule 1200-14-02-.03, continued)

- ~~(d) Has no more than \$8,000.00 in liquid assets; and~~
- ~~(e) For ADAP applicants, presents certification that applicant has no other source of third party reimbursement for prescription drugs.~~
- (1) To qualify for Ryan White Program services, an applicant must submit a completed and signed Ryan White Program application including evidence that applicant meets the following eligibility requirements:
 - (a) Is a resident of Tennessee;
 - (b) Meets the generally accepted medical criteria for HIV disease;
 - (c) An income level and total liquid assets that do not exceed the limits set by the Department and posted semiannually on its website; and
 - (d) For ADAP applicants, presents certification that applicant has no other source of third party reimbursement for prescription drugs.
- (2) For purposes of establishing income and assets the following shall apply:
 - (a) For applicants 18 years and older, only the income and assets of the applicant and the applicant's legal spouse with whom the applicant resides will be considered.
 - (b) For applicants less than 18 years of age, the income and assets of the applicant and the legal parent or parents with whom the applicant resides will be considered. Income and assets of step-parents and legal guardians shall not be considered.
- (3) In order to continue to receive any Ryan White Program services, a Client must submit the following every six (6) months:
 - (a) Confirmation that the Client continues to meet the eligibility criteria; and
 - (b) A completed and signed recertification application.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.04 PROGRAM LIMITED TO AVAILABLE FUNDS.

- (1) The availability of funds limits the number of Clients receiving ADAP services. The Department shall cease approval of applications if funding is insufficient to sustain additional recipients.
- (2) Current Clients shall have priority for funding.
- (3) Eligible applicants who are denied ADAP enrollment due to a funding shortage shall be placed on a waiting list managed by the Ryan White Program.
- (4) Individuals on the ADAP waiting list in one of the following Priority Groups shall be provided with temporary emergency ADAP services as follows:
 - (a) Pregnant women shall be eligible for ADAP services during pregnancy and up to 90 days post partum; and

(Rule 1200-14-02-.03, continued)

(b) Infants up to one year of age shall be eligible for ADAP services for up to 180 days of coverage.

(5) The Department shall review available funding by March 31 and September 30 of each year, at which time it shall notify all current clients of the maximum income level and liquid assets for program eligibility. The Department will also post this information on its website.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.05 CERTIFICATION OF COVERAGE BY PROGRAM.

(1) The Department will notify applicants whether certification of coverage has been awarded. Applicants for whom coverage is certified are not guaranteed ADAP services beyond the federal fiscal year of the current grant.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.06 RECONSIDERATION OF DENIAL.

(1) Applicants denied or removed from participation in HDAP or IAP may request reconsideration.

(a) The applicant must request reconsideration in writing, directed to the Program Director, within twenty one (21) calendar days of denial or removal. The Program Director will issue a reconsidered decision in writing within fourteen (14) days of the request for reconsideration. The Program Director's review is limited to a determination of whether or not the applicant meets eligibility criteria. The decision of the Program Director is final.

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

1200-14-02-.07 CONFIDENTIALITY OF RECORDS.

All applicant or recipient identifying information or records of the ADAP program shall be considered confidential as required by the federal legislation authorizing funding assistance to the program. Such information or records shall not be disclosed by the program except for those purposes for which a signed release is provided by the person served. All correspondence containing the identity of program applicants or recipients shall be sealed and marked "CONFIDENTIAL".

Authority: T.C.A. §§ 4-5-202, 68-1-103, 68-1-106, and 68-10-109. **Administrative History:** Original rule filed March 31, 1988; effective May 15, 1988. Amendment filed January 26, 1990; effective March 12, 1990. Repeal and new rule filed January 3, 2012; effective June 30, 2012.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

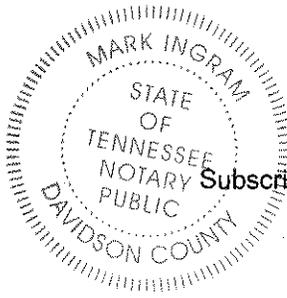
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 12.10.15 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 12.11.15

Signature: Mary Kennedy

Name of Officer: Mary Kennedy
Deputy General Counsel

Title of Officer: Department of Health



Subscribed and sworn to before me on: 12/11/15

Notary Public Signature: Mark Ingram

My commission expires on: 3/16/19

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

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
12/23/2015
Date

Department of State Use Only

Filed with the Department of State on: 12/23/15

Effective on: 3/22/16

Tre Hargett

Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Agriculture, Division of Consumer & Industry Services

SUBJECT: Food Safety; Fees

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 43-1-703, 53-1-207 and 53-7-213

EFFECTIVE DATES: March 22, 2016, through June 30, 2016

FISCAL IMPACT: \$624,450 additional revenue

STAFF RULE ABSTRACT: The rulemaking hearing rule replaces the current rules for soda water and nonalcoholic beverages, bread and bakery products, operation of frozen food lockers, and standards for good manufacturing practices with new food manufacturer, processor, warehouse, and distributor regulations. The rule replaces the current regulations on meat and poultry inspection with new meat and poultry processor regulations. The rule also revises the current rule on retail food store sanitation.

According to the Department, the rule modernizes the license application standards requirements for food manufacturers, processors, distributors, and warehouses, as well as meat and poultry processors and retail food stores to achieve greater consistency with federal requirements.

The rule also implements the tiered fee structure that is required by Chapter 485 of the Public Acts of 2015 (Tenn. Code Ann., Section 43-1-703) whereby fee amounts that were set at specific dollar amounts in T.C.A. were replaced with a 12-tier system consisting of a range of fees from \$25.00 to \$1,000. The rule assigns the fee Tier based on the risk level of the activities that will be conducted on the licensee's premises.

Public Hearing Comments

The Department of Agriculture held a public hearing on August 6, 2015. David Waddell served as hearing officer for the Rulemaking Hearing concerning 0080-04-01 Regulations on Meat and Poultry Inspection; 0080-04-03 Regulations Relating to Soda Water and Nonalcoholic Beverages; Standard of Identity; Sanitation Plant Facilities; Labeling; 0080-04-06 Regulation for Bread and Bakery Products; 0080-04-07 Regulations on the Operation of Frozen Food Lockers; 0080-04-09 Retail Food Store Sanitation; 0080-04-10 Standards for Good Manufacturing Practices; 0080-04-13 Food Manufacturer, Processor, Warehouse, and Distributor Regulations; and 0080-04-14 Meat and Poultry Processor Regulations. No questions or comments from the public were presented at the hearing.

Regulatory Flexibility Addendum

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

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

Businesses subject to the proposed rule include: retail food stores, food service establishments located within retail food stores, food manufacturers, processors, warehouses, and distributors, and meat and poultry processors.

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

Approximately 9,330 retail food establishments, 1,306 food manufacturing firms, and 528 food warehouses are registered with the department.

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

Reporting, recordkeeping, and other administrative costs of small businesses are unaffected by this rule inasmuch as the rule does not alter or duplicate those reporting or recordkeeping requirements otherwise applicable under existing regulation.

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

The effect of these rules on small businesses is to require additional information from license applicants in order to verify their business and contact information, to alter the fee schedule for the programs' licenses, and to incorporate additional federal standards aligned for food safety. Some fees have been reduced, while others have been increased in an effort to better grade the department's fee schedule according to departmental expenditures in regulating the program.

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

No less burdensome methods for achieving this purpose are possible.

These rules are promulgated to implement Public Chapter 485 of 2015, which expanded the Agricultural Regulatory Fund to include all fee-generated revenue collected by the department. As part of the legislation, all fee amounts charged by the department were removed from the Code, and the commissioner of agriculture was authorized to set the fee amounts by regulation. The intent of the legislation is to allow the department to adjust fees and to improve the percentage of cost recovery for its programs through fee collection rather than relying as heavily on revenue from the general fund.

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

Any federal counterparts for standards of identity and labeling would preempt state standards pursuant to the Federal Food Drug and Cosmetic Act and National Labeling and Education Act and their associated regulations. See e.g. 21 U.S.C.A. §343. Federal counterparts for meat and poultry processing are

currently implemented in Tennessee pursuant to the Federal Meat Inspection Act (21 U.S.C.A. §601) and its associated regulations and the Federal Poultry Inspection Act (21 U.S.C.A. §451) and its associated regulations.

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

Exemption of small businesses from the requirements of this rule may compromise food safety requirements and/or compromise the intent to grade fee schedules according to resources expended for oversight of regulatory programs.

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)

No impact is expected on local governments.

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Sequence Number: 12-19-15
 Rule ID(s): 6082-6089
 File Date: 12/23/15
 Effective Date: 3/22/16

Redline Copy of Rule Filing

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Consumer & Industry 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
0080-04-01	Repealed
Rule Number	Rule Title

Chapter Number	Chapter Title
0080-04-03	Repealed
Rule Number	Rule Title

Chapter Number	Chapter Title
0080-04-06	Repealed
Rule Number	Rule Title

Chapter Number	Chapter Title
0080-04-07	Repealed
Rule Number	Rule Title

Chapter Number	Chapter Title
0080-04-09	Retail Food Store Sanitation
Rule Number	Rule Title
0080-04-09-.08	Compliance and Enforcement

Chapter Number	Chapter Title
0080-04-10	Repealed
Rule Number	Rule Title

Chapter Number	Chapter Title
0080-04-13	Food Manufacturer, Processor, Warehouse, and Distributor Regulations
Rule Number	Rule Title
0080-04-13-.01	Applicability
0080-04-13-.02	Definitions 73
0080-04-13-.03	License Application and Fees

0080-04-13-.04	Certificates of Free Sale
0080-04-13-.05	Standards for Manufacturing and Processing
0080-04-13-.06	Standards for Labeling
0080-04-13-.07	Notice of Enforcement Action Against Licensee

Chapter Number	Chapter Title
0080-04-14	Meat and Poultry Processor Regulations
Rule Number	Rule Title
0080-04-14-.01	Applicability
0080-04-14-.02	Definitions
0080-04-14-.03	License Application and Fees
0080-04-14-.04	Standards for Processing
0080-04-14-.05	Standards for Labeling
0080-04-14-.06	Notice of Enforcement Action Against Licensee

Repeal

Chapter 0080-04-01
Regulations on Meat and Poultry Inspection

Chapter 0080-04-01 Regulations on Meat and Poultry Inspection is repealed in its entirety.

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
FOOD AND DRUG DIVISION**

**CHAPTER 0080-4-1
REGULATIONS ON MEAT AND POULTRY INSPECTION**

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0080-4-1-.01 GENERAL: "BAIT" OR BAIT AND SWITCH DEFINITION.

(1) "Bait" or "Bait and Switch" as defined in Section 52-916 (z) includes the following:

- (a) Advertising, offering for sale or selling any wholesale cut which is an unfair method of competition or follows unfair trade practices, and particularly the following:
1. Bait Selling and Bait and Switch:
 - (i) Disparage or degrade any product advertised or offered for sale by the seller in order to induce the purchase of another product, or represent that a product is for sale when such representation is used primarily to sell another product.
 - (ii) Substitute any product for that ordered by the buyer without the buyer's consent.
 - (iii) Fail to have available a sufficient quantity of any product represented as being for sale to meet reasonable anticipated demands, unless the available amount is disclosed fully and conspicuously.
 - (iv) Switching grades or parts or cuts from the kind advertised, offered for sale or purchased.
- (b) False and Misleading Advertising, Section 52-920(e) shall include but shall not be limited to the following:
1. Price and Financing

(Rule 0080-4-1-.01, continued)

- (i) ~~Misrepresent or fail to disclose fully and conspicuously the terms of any financing arrangement, interest, service charge, credit investigation fee, time-price differential or any other costs.~~
 - (ii) ~~Misrepresent the total amount that the buyer will be obligated to pay.~~
 - (iii) ~~Fail to disclose fully and conspicuously any extra charges for cutting, wrapping, freezing, delivery or other services.~~
 - (iv) ~~Represent the price of a wholesale cut in any terms other than price per pound. Such price shall not be stated by dollar amount of any installment payment and number or period of such payments. Credit terms, if offered, shall be stated separately.~~
2. Product Representations:
- (i) ~~Misrepresent the cut, grade, brand or trade name, or weight or measure of any food product.~~
 - (ii) ~~Use the abbreviation "U.S." in describing a food product not graded by the United States Department of Agriculture, except that foods may be described as "U.S.D.A. Inspected" when true and failure to state "Ungraded".~~
 - (iii) ~~Misrepresent a food product through the use of any term similar to a government grade.~~
 - (iv) ~~Fail to disclose fully and conspicuously the correct government grade for any food product if such product is represented as having been graded.~~
 - (v) ~~Fail to disclose fully and conspicuously that the yield of consumable meat from any wholesale cut will be less than the weight of the wholesale cut.~~
 - (vi) ~~Misrepresent the amount or proportion of retail cuts that a wholesale cut of meat will yield.~~
 - (vii) ~~Fail to furnish the buyer with a written statement of total weight of cut and packaged meat delivered. If weighed with immediate wrappings such fact shall be stated. Both the actual net weight of the wholesale cut, prior to cutting and trimming, and the delivered weight shall be disclosed to the buyer in writing at time of delivery.~~
 - (viii) ~~Fail to disclose fully and conspicuously whether a quarter of a carcass is the front of hind quarter, or represent any meat as a quarter if it has been cut from a quarter prior to sale.~~
 - (ix) ~~Represent any wholesale cut as a "half" or "side" unless it consists of a front and hind quarter. Both quarters shall be from the same side of the same animal unless the seller discloses fully and conspicuously that they are from different sides or different animals as the case may be. Each quarter shall be of the same grade or quality as the other quarters comprising the half or side and the seller shall advise the buyer of the weight of each quarter prior to sale. In selling quarters individually or as part of a half or side, if actual weights are not known or cannot be determined prior to sale, approximate weights may be used, provided; The~~

(Rule 0080-4-1-.01, continued)

buyer is informed that the weights are approximate, the weights are so identified on any purchase order or contract, and the seller agrees with the buyer, in writing, to make a cash refund or grant a credit on delivery for the difference between actual weight and the approximate weight on which the sale was made.

- (x) Use the words "bundle", "sample order", or words of similar import to describe a quantity of meat or poultry unless the seller itemizes each cut and the weight thereof which the buyer will receive.
- (xi) Advertise or offer free, bonus or extra food combined with or conditioned on the purchase of any other product or service unless such additional food is accurately described including, whenever applicable, grade, net weight or measure, and brand or trade name.
- (xii) Misrepresent the breed, origin or diet of slaughtered animals or parts thereof offered for sale. Sellers making such claims shall have written records available to substantiate such fact.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original Rule certified June 5, 1974.

0080-4-1-.02 GENERAL: CLARIFICATION OF EXEMPTIONS.

- (1) It is hereby ordered that exemptions which permit the sale of uninspected meat and meat food products as found in Section 52-923 (a)(1), Tennessee Code Annotated, is terminated. The other exemptions in this paragraph are not affected. The requirements for inspection as found in Section 52-917, Tennessee Code Annotated, and official regulations must be met when meat and meat food products are sold or offered for sale.
- (2) It is hereby ordered that the exemption provided for in Section 52-923 (a)(3), Tennessee Code Annotated, shall in no way be in conflict with the requirements of Sections 52-916 through 52-922 and official regulations which have been promulgated.
- (3) Exemptions for retail establishments and for custom slaughtering, as provided for in the "Federal Meat Inspection Act" and "Federal Poultry Inspection Act" and Regulations, and for official establishments and products under United States Department of Agriculture inspection are acceptable exemptions under this regulation.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original Rule certified June 5, 1974.

0080-4-1-.03 THROUGH 0080-4-1-.142 REPEALED.

Authority: T.C.A. §4-5-225. *Administrative History:* Original rule certified June 5, 1974. Repeal by Public Chapter 261, effective July 1, 1983.

0080-4-1-.143 REINSPECTION AND PREPARATION OF PRODUCTS: APPROVAL OF SUBSTANCES FOR USE IN THE PREPARATION OF MEAT FOOD PRODUCTS.

- (1) No product shall contain any substance which impairs its wholesomeness or which is not approved by the Director of Division.
- (2) Under appropriate declaration as required in these regulations, the following substances may be added to products:

(Rule 0080-4-1.143, continued)

- (a) Common salt, approved sugars (sucrose (cane or beet sugar), maple sugar, dextrose, invert sugar, honey, corn syrup solids, corn syrup and glucose syrup), wood smoke, vinegar, flavorings, spices, sodium nitrate, sodium nitrite, potassium nitrate, potassium nitrite, and other substances specified may be added to products under conditions, if any, specified in this part of this Section.
- (b) Other harmless synthetic flavorings may be added to products with the approval of the Director of Division.
- (3) Coloring matter and dyes other than those specified in the chart in subparagraph (a) of this paragraph, may be applied to products, mixed with rendered fat, applied to natural and artificial casings, and applied to such casings enclosing products, if approved by the Director of Division in specific cases. When any coloring matter or dye is applied to casings, there shall be no penetration of coloring into the product. When any coloring matter or dye is added to meat fat shortening containing synthetic flavoring, the product shall be packed in conventional, round shortening containers having a capacity no greater than 3 pounds.
 - (a) The substances specified in the following chart are acceptable for use in the processing of products, provided they are used for the purposes indicated, within the limits of the amounts stated and under other conditions specified in this part of this Section.

Class of Substance	Substance	Purpose	Product	Amount
Anticoagulant	Citric Acid Sodium Citrate	To Prevent Clotting	Fresh Beef Blood	0.2 percent with or without water. When water is used to make a solution of citric acid or sodium citrate added to beef blood not more than 2 parts of water to 1 part of citric acid or sodium citrate shall be used.
Antifoaming Agent	Methyl Polysilicone	To Retard Foaming	Soups	10 parts per million
			Rendered fats	10 parts per million
			Curing Pickle	50 parts per million
Antioxidants and oxygen interceptors.	BHA (butylated hydroxyanisole).	To Retard Rancidity	Dry Sausage	0.003 percent based on total wt.
	BHT (butylated hydroxytoluene).	To Retard Rancidity	Dry Sausage	0.003 percent based on total wt.
	Propyl gallate	To Retard Rancidity	Dry Sausage	0.003 percent based on total wt. 0.006 percent in combination

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	BHA (butylated hydroxyanisole):	To Retard Rancidity	Rendered animal fat or a combination of such fat and vegetable fat.	0.01 percent 0.02 percent in combination
	BHT (butylated hydroxytoluene):	do	do	0.01 percent
	Glycine	do	do	0.01 percent
	Nor-dihydroguaiaretic acid (NDGA):	do	do	0.01 percent
	Propyl Gallate	do	do	0.01 percent
	Resin Guaiac	do	do	0.01 percent
	Tocopherols	To Retard Rancidity	Rendered animal fat or a combination of such fat and vegetable fat.	0.03 percent. A 30 percent concentrate of tocopherols in vegetable oils shall be used when added as an antioxidant to products designated as "lard" or "rendered pork fat."
	BHA (butylated hydroxyanisole):	To Retard Rancidity	Fresh Pork Sausage	0.01 percent based on fat content
	BHT (butylated hydroxytoluene):	do	do	0.01 percent based on fat content.
	Propyl gallate	do	do	0.01 percent based on fat content. 0.02 percent combination based on fat content
	BHA (butylated hydroxyanisole):	do	Dried Meats	0.01 percent based on total wt.
	BHT (butylated hydroxytoluene):	do	do	0.01 percent based on total wt.
	Propyl Gallate	do	do	0.01 percent based on total wt. 0.01 percent in combination

(Rule 0080-4-1-143, continued)

Class of Substance	Substance	Purpose	Product	Amount
Binders	Algin	To extend and stabilize product.	Breading sauces.	Mix; Sufficient for purpose
	Carageenan	do	do	Do.
	Carboxymethyl cellulose (cellulose gum).	do	Baked pies	Do.
	Gums, vegetable	do	Egg roll	Do.
	Methyl cellulose	To extend and to stabilize product (also carrier).	Meat and vegetable patties.	0.15 percent
	Isolated soy protein	To bind and extend product.	Imitation sausage; nonspecific loaves; soups; stews.	Sufficient for purpose
	Sodium caseinate	do	do	Do.
Bleaching Agent	Whey (dried)	do	do	Do.
	Hydrogen Peroxide	To remove color	Tripe (substance must be removed from product by rinsing with clear water).	Do
Catalysts (substances must be eliminated during process).	Nickel	To accelerate chemical reaction.	Rendered animal fats or a combination of such fats and vegetable fats.	Do.
	Sodium amide	Rearrangement of fatty acid radicals.	Do	Do
	Sodium methoxide	do	do	Do.
Coloring agents (natural).	Alkanet, annatto, carotene, cochineal, green chlorophyll, saffron & turmeric.	To color casings or rendered fats; marking and branding product.	Sausage casings; oleomargarine; shortening, marking or branding ink on product.	Sufficient for purpose (may be mixed with approved synthetic dyes or harmless inert material such as common salt and sugar).
	Coal tar dyes approved under the Federal Food, Drug, and Cosmetic Act (operator must furnish evidence to Officer in charge that dye has been certified for use in connection with foods by the Food and Drug Administration)	do	do	Sufficient for purpose (may be mixed with approved natural coloring matters or harmless inert material such as common salt or sugar).

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount	
Cooling and retort water treatment agents:	Calcium chloride	To prevent staining on exterior of canned goods.	Any	Sufficient	for
	Citric Acid	do	do	do	
	Diethyl Sodium sulfosuccinate	do	do	0.05-percent	
	Disodiumcalcium ethylenediaminetetra acetate.	do	do	do	
	Disodium ethylenediaminetetra acetate.	do	do	do	
	Disodium Phosphate	do	do	do	
	Ethylene Diaminetetraacetic acid.	do	do	do	
	Potassium Pyrophosphate.	do	do	do	
	Propylene glycol	do	do	do	
	Sodium bicarbonate	do	do	do	
	Sodium carbonate	do	do	do	
	Sodium dodecylbenzene sulfonate.	do	do	0.05-percent	
	Sodium gluconate	do	do	Sufficient	for
	Sodium hexametaphosphate	do	do	do	
	Sodium laurylsulfate.	do	do	0.05-percent	
Sodium metasilicate	do	do	Sufficient	for	
				purpose	

(Rule 0080-4-1-143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Sodium alkylbenzene Sulfonate (alkyl group predominately C12 and C13 and not less than 95 percent C10 to C16).	To prevent staining on canned goods.	do	0.05 percent
	Sodium nitrite (The sodium nitrite must be decharacterized with 0.05 percent powdered charcoal. Bulk decharacterized sodium nitrite when in cook room shall be held in locked metal bin or container conspicuously labeled: "Decharacterized sodium nitrite—To be used by authorized personnel only.").	To inhibit corrosion on exterior of canned goods.	do	600 parts per million
	Sodium pyrophosphate	To prevent staining on canned goods.	do	0.05 percent
	Sodium tripolyphosphate	do	do	Do.
	Zinc oxide	do	do	0.01 percent
	Zinc sulfate	do	do	Do.
Curing Agents	Ascorbic Acid	To accelerate color fixing or preserve color during storage	Cured pork and beef cuts, cured comminuted meat food product.	75-ozs. to 100 gals. pickle at 10 percent pump level; 3/4 oz. to 100 lbs. meat or meat byproduct; 10 percent solution to surfaces of cured cuts prior to packaging (the use of such solution shall not result in the addition of a significant amount of moisture to the product).

(Rule 0080-4-1.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Erythorbic acid	do	do	Do.
	Glucono delta lactone.	To accelerate color fixing.	Cured, comminuted meat or meat food product.	8 ozs. to each 100 lbs. of meat or meat byproduct.
	Sodium ascorbate	To accelerate color fixing or preserve color during storage	Cured pork and beef cuts, eured comminuted meat food product.	87.5 ozs. to 100 gals. pickle at 10 percent pump level; 7/8 oz. to 100 lbs. meat or meat byproduct; 10 percent solution to surfaces of eured cuts prior to packaging (the use of such solution shall not result in the addition of a significant amount of moisture to the product).
	Sodium erythorbate	do	do	Do
	Citric acid or sodium citrate	do	do	May be used in eured products or in 10 percent solution used to spray surfaces of eured cuts prior to packaging to replace up to 50 percent of the ascorbic acid, erythorbic acid, sodium ascorbate, or sodium erythorbate that is used.
<p>"The above curing agents are permitted in frozen comminuted products in the amounts specified for eured comminuted products."</p>				
	Sodium or potassium nitrate.	Source of nitrate	Cured products	7 lbs. to 100 gals. pickle; 3 1/2 ozs. to 100 lbs. meat (dry cure); 2 3/4 ozs. to 100 lbs. chopped meat.

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Sodium or potassium nitrite (Supplies of sodium nitrite and potassium nitrite and mixtures containing them must be kept securely under the care of a responsible employee of the establishment. The specific nitrite content of such supplies must be known and clearly marked accordingly.)	To fix color	do	2 lbs. to 100 gals. pickle at 10 percent pump level; 1 oz. to 100 lbs. meat (dry cure); 1/4 oz. to 100 lbs. chopped meat and/or meat byproduct. The use of nitrites, nitrates or combination shall not result in more than 200 parts per million nitrite in finished product.
Denuding agents; may be used in combination. Must be removed from tripe by rinsing with potable water.	Lime (calcium oxide; calcium hydroxide).	To denude mucous membrane	Tripe	Sufficient for purpose.
	Sodium carbonate	do	do	Do.
	Sodium gluconate	do	do	Do.
	Sodium hydroxide	do	do	Do.
	Sodium metasilicate	do	do	Do.
	Sodium persulfate	do	do	Do.
Emulsifying agents	Trisodium phosphate.	do	Do	Do.
	Acetylated monoglycerides	To emulsify product	Shortening	Sufficient for purpose.
	Diacetyl tartaric acid esters of mono and diglycerides.	do	Rendered animal fat or a combination of such fat with vegetable fat.	Do.
	Glycerol laurate, stearate, oleate, or palmitate.	do	do	Do.
	Lecithin	To emulsify product (also as antioxidant).	Oleomargarine shortening	Do.
Mono and diglycerides (glycerol palmitate, etc.).	To emulsify product.	Rendered animal fat or a combination of such fat with vegetable fat.	Sufficient for purpose in lard and shortening; 0.5 percent in oleomargarine.	

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Polyglycerol esters of fatty acids (Polyglycerol esters of fatty acids are restricted to those up to and including the decaglycerol esters and otherwise meeting the requirements of §121.1120(a) of the Food Additive Regulations).	do	Rendered animal fat or a combination of such fat with vegetable fat when use is not precluded by standards of identity.	Sufficient for purpose.
	Polysorbate 80 (polyoxyethylene (20) sorbitan monooleate).	do	Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings and toppings and in the frying of foods.	1 percent when used alone. If used with polysorbate 60 the combined total shall not exceed 1 percent.
	Propylene glycol mono and diesters of fats and fatty acids	do	Rendered animal fat or a combination of such fat with vegetable fat.	Sufficient for purpose.
	Polysorbate 60 (polyoxyethylene (20) sorbitan monostearate).	do	Shortening for use in nonstandardized baked goods, baking mixes, icings, fillings, and toppings and in the frying of foods.	1 percent when used alone. If used with polysorbate 80 the combined total shall not exceed 1 percent.
	Steryl-2-lactylic acid.	do	Shortening to be used for cake icings and fillings.	3.0 percent
	Steryl monoglyceridyl citrate.	do	Shortening	Sufficient for purpose.
Flavoring protectors and developers.	Approved artificial smoke flavoring.	To flavor product.	Any	Sufficient for purpose.
	Approved smoke flavoring.	do	Do	Do.
	Autolyzed yeast extract.	do	Do	Do.

(Rule 0080-4-1-143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Harmless bacteria starters of the acidophilus type; lactic acid starter or culture of <i>Pediceoccus cerevisiae</i> .	To develop flavor.	Dry sausage, pork roll, thuringer, lebanon bolona, eervelat, and salami.	0.5 percent
	Benzoic acid; sodium benzoate.	To retard flavor reversion	Oleomargarine	0.1 percent
	Citric acid	To protect flavor.	do	Sufficient for purpose
	Corn syrup, solids; corn syrup; Corn syrup solids; corn syrup; glucose syrup.	To flavor	Chili con carne; sausage, hamburger; meat loaf, luncheon meat, chopped or pressed ham.	2.0 percent individually or collectively; calculated on a dry basis.
	Dextrose	To flavor product.	Sausage, ham and cured products.	Sufficient for purpose.
	Diacetyl	Do	Oleomargarine	Do
	Hydrolyzed plant protein.	Do	Any	Do.
	Isopropyl citrate	To protect flavor.	Oleomargarine	0.02 percent.
	Malt syrup	To flavor product.	Cured products	2.5 percent.
	Milk protein hydrolysate.	Do	Any	Sufficient for purpose.
	Monosodium glutamate.	Do	do	Do.
	Sodium sulfoacetate derivative of mono and diglycerides.	Do	do	0.05 percent
	Starter distillate	Do	Oleomargarine	Sufficient for purpose.
	Stearyl citrate	To protect flavor	do	0.15 percent
	Sugars (sucrose and dextrose).	To flavor product.	Any	Sufficient for purpose.
Gases	Carbon dioxide solid (dry ice).	To cool product.	Chopping of meat; packaging of product.	Do.
	Nitrogen	To exclude oxygen	Sealed container.	Do.
Hog scald agents; must be removed by subsequent cleaning operations.	Caustic soda	To remove hair	Hog carcasses	Do.
	Diocetyl sodium sulfosuccinate.	Do	do	Do.
	Lime	Do	do	Do.
	Methyl polysilicone	Do	do	Do.

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Sodium carbonate	Do	do	Do:
	Sodium dodecylbenzene sulfonate:	Do	do	Do:
	Sodium hexametaphosphate:	Do	do	Do:
	Sodium lauryl sulfate:	Do	do	Do:
	Sodium metasilicate:	Do	do	Do:
	Sodium alkylbenene sulfonate (alkyl group predominantly C12 and C13 and not less than 95 percent C10 to C16):	Do	do	Do:
	Sodium sulfate	Do	do	Do:
	Sodium tripolyphosphate:	Do	do	Do:
	Sucrose	Do	do	Do:
	Trisodium phosphate:	Do	do	Do:
Miscellaneous	Potassium sorbate	To retard mold growth:	Dry-sausage	2.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing:
		To preserve product and to retard mold growth:	Oleomargarine or margarine:	0.1 percent by weight of the finished oleomargarine or margarine:
	Calcium disodium EDTA (calcium disodium ethylenediaminetetraacetate):	To preserve product and to protect flavor:	do	75 parts per million by weight of the finished oleomargarine or margarine:
	Propylparaben (propyl p-hydrox Ybenzoate):	do	do	2.5 percent in water solution may be applied to casings after stuffing or casings may be dipped in solution prior to stuffing:

(Rule 0080-4-1.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Sodium bicarbonate.	To neutralize excess acidity; cleaning; vegetables.	Rendered soups; pickle.	fats; euring Sufficient for purpose.
	Calcium propionate	To retard mold growth.	Pizza crust	0.32 percent alone or in combination based on weight of the flour used.
	Sodium propionate	do	do	0.32 percent alone or in combination based on weight of the flour used.
Phosphates	Disodium phosphate	To decrease amount of cooked-out juices.	Cured hams, pork shoulder pinies, and loins, and canned hams and pork shoulders pinies, and products covered by §317.8(b)(13)(ii) and similar products; chopped ham and bacon.	5.0 percent of phosphate in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clean solution may be injected into product).
	Monosodium phosphate.	do	do	Do.
	Sodium hexametaphosphate.	do	do	Do.
	Sodium tripolyphosphate.	do	do	Do.
	Sodium pyrophosphate.	do	do	Do.
	Sodium acid pyrophosphate.	do	do	Do.
Proteolytic enzymes	Aspergillus oryzae	To soften tissues	Beef cuts	Solutions consisting of water, salt, monosodium glutamate, and approved Proteolytic enzymes applied or injected into cuts of beef shall not result in a gain of more than 3 percent above the weight of the untreated product.

(Rule 0080-4-1-.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
Refining agents (must be eliminated during process of manufacturing):	Aspergillus flavusoryzae group:	do	do	Do:
	Bromelin	do	do	Do:
	Ficin	do	do	Do:
	Papain	do	do	Do:
	Acetic acid	To separate fatty acids and glycerol:	Rendered-fats:	Sufficient for purpose:
	Bicarbonate of soda	do	do	Do:
	Carbon (purified eharecoal):	To aid in refining of animal-fats:	do	Do:
	Caustic soda (sodium hydroxide):	To refine fats	do	Do:
	Diatomaceous earth;	do	do	Do:
	Fuller's earth:	do	do	Do:
Rendering agents:	Sodium carbonate	do	do	Do:
	Tannic acid	do	do	Do:
	Tricalcium phosphate:	To aid rendering	Animal-fats:	Sufficient for purpose:
Artificial sweetens	Trisodium phosphate:	do	do	Do:
	Saccharin	To sweeten product:	Bacon	0.01 percent:
	Calcium Cyclamate	do	Ham	0.03 percent:
Synergists (used in combination with antioxidants.):	Citric acid	To increase effectiveness of antioxidants:	Bacon	0.15 percent
			Lard and shortening:	0.01 percent alone or in combination with antioxidants in lard or shortening:
			Dry sausage	0.001 percent in dry sausage in combination with antioxidants:
			Fresh pork sausage	0.01 percent on basis of fat content in combination with antioxidants:
			Dried meats	0.01 percent on basis of total weight in combination with antioxidants

(Rule 0080-4-1.143, continued)

Class of Substance	Substance	Purpose	Product	Amount
	Monoisopropyl citrate.	To increase effectiveness of antioxidants.	Lard, shortening, oleomargarine, fresh pork sausage, dried meats	0.02 percent.
	Phosphoric Acid	do	Lard and shortening.	0.01 percent.
	Monoglyceride citrate.	do	Lard, shortening, fresh pork sausage, dried meats.	0.02 percent.

- (4) No substance may be used in or on any product if it conceals damage or inferiority or makes the product appear to be better or of greater value than it is. Therefore:
- (a) Paprika or oleoresin paprika may not be used in or on fresh meat, such as steaks, or comminuted fresh meat food products, such as chopped and formed steaks or patties; or in any other meat food products consisting of fresh meat (with or without seasoning), except chorizo sausage and Italian brand sausage, and except other meat food products in which paprika or oleoresin paprika is permitted as an ingredient in a standard of identity or composition in 0080-4-1.152-199 of this subchapter.
- (b) Sorbic acid, calcium sorbate, sodium sorbate, and other salts of sorbic acid may not be used in cooked sausage or any other product; sulfurous acid and salts of sulfurous acid may not be used in or on any product and niacin or nicotinamide may not be used in or on fresh product; except that potassium sorbate, propylparaben (propyl p-hydroxybenzoate), calcium propionate, sodium propionate, benzoic acid, and sodium benzoate may be used in or on any product only as provided in the chart in b (4) or as approved by the Administrator in specific cases.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

0080-4-1.144 AND 0080-4-1.145 REPEALED

Authority: T.C.A. §4-5-225. *Administrative History:* Original rules certified June 5, 1974. Repeal by Public Chapter 261, effective July 1, 1983.

0080-4-1.146 REINSPECTION AND PREPARATION OF PRODUCTS: PRESCRIBED TREATMENT OF PORK AND PRODUCTS CONTAINING PORK TO DESTROY TRICHINAE.

- (1) All forms of fresh pork, including fresh unsmoked sausage containing pork muscle tissue, and pork such as bacon and jowls, other than those covered by paragraph (2) of this section, are classed as products that are customarily well cooked in the home or elsewhere before being served to the consumer. Therefore, the treatment of such products for the destruction of trichinae is not required.
- (2) Products named in this paragraph, and products of the character thereof, containing pork muscle tissue (not including pork hearts, pork stomachs, and pork livers), or the pork muscle tissue which forms an ingredient of such products, shall be effectively heated, refrigerated, or cured to destroy any possible live trichinae, as prescribed in this section at the official establishment where such products are prepared: Bologna; frankfurters; viennas; smoked sausage; knoblauch sausage; mortadella; all forms of summer or dried sausage, including mettwurst; ground meat mixtures containing pork and beef, veal, lamb, mutton, or goat meat and prepared in such a manner that they might be eaten rare or without thorough cooking; flavored pork sausage such as those containing wine or similar flavoring

(Rule 0080-4-1-.146, continued)

materials; cured pork sausage; sausage containing cured and/or smoked pork; cooked loaves; roasted, baked, boiled, or cooked hams, pork shoulders, or pork shoulder picnicies; Italian-style hams; Westphalia-style hams; smoked boneless pork shoulder butts; cured meat rolls; capocollo (capicola, capicola); coppa; fresh or cured boneless pork shoulder butts, hams, loins, shoulders, shoulder picnicies, and similar pork cuts in casings or other containers in which ready-to-eat delicatessen articles are customarily enclosed (excepting Scotch-style hams); breaded pork products; cured boneless pork loins; boneless back bacon; bacon used for wrapping around patties, steaks and similar products; and smoked pork cuts such as hams, shoulders, loins, and pork shoulder picnicies. Cured boneless pork loins shall be subjected to prescribed treatment for destruction of trichinae prior to being shipped from the establishment where cured.

(3) The treatment shall consist of heating, refrigerating, or curing, as follows:

(a) Heating, 1. All parts of the pork muscle tissue shall be heated to a temperature not lower than 137° F., and the method used shall be one known to insure such a result. On account of differences in methods of heating and in weights of products undergoing treatment it is impracticable to specify details of procedures for all cases.

2. Procedures which insure the proper heating of all parts of the product shall be adopted. It is important that each piece of sausage, each ham, and other product treated by heating in water be kept entirely submerged throughout the heating period; and that the largest pieces in a lot, the innermost links of bunched sausage or other massed articles, and pieces placed in the coolest part of a heating cabinet or compartment or vat be included in the temperature tests.

(b) Refrigerating. At any stage of preparation and after preparatory chilling to a temperature of not above 40° F. or preparatory freezing, all parts of the muscle tissue of pork or product containing such tissue shall be subjected continuously to a temperature not higher than one of those specified in table 1, the duration of such refrigeration at the specified temperature being dependent on the thickness of the meat or inside dimensions of the container. Table 1—Required Period of Freezing at Temperature Indicated

Temperature °F.	Group 1 (Days)	Group 2 (Days)
5	20	30
-10	10	20
-20	6	12

1. Group 1 comprises product in separate pieces not exceeding 6 inches in thickness, or arranged on separate racks with the layers not exceeding 6 inches in depth, or stored in crates or boxes not exceeding 6 inches in depth, or stored as solidly frozen blocks not exceeding 6 inches in thickness.

2. Group 2 comprises product in pieces, layers, or within containers, the thickness of which exceeds 6 inches but not 27 inches, and product in containers including tierces, barrels, kegs, and cartons having a thickness not exceeding 27 inches.

3. The product undergoing such refrigeration or the containers thereof shall be so spaced while in the freezer as will insure a free circulation of air between the pieces of meat, layers, blocks, boxes, barrels, and tierces in order that the temperature of the meat throughout will be promptly reduced to not higher than 5° F., 10° F., or 20° F., as the case may be.

(Rule 0080-4-1-146, continued)

4. In lieu of the methods prescribed in Table 1, the treatment may consist of refrigeration to a temperature of -30° F. in the center of the pieces of meat or commercial freeze drying.
 5. During the period of refrigeration the product shall be kept separate from other products and in the custody of the Program in rooms or compartments equipped and made secure with all official Program lock or seal. The rooms or compartments containing products undergoing freezing shall be equipped with accurate thermometers placed at or above the highest level at which the product undergoing treatment is stored and away from refrigerating coils. After completion of the prescribed freezing of pork to be used in the preparation of product covered by paragraph (b) of this section the pork shall be kept under close supervision of an inspector until it is prepared in finished form as one of the products enumerated in paragraph (b) of this section or until it is transferred under Program control to another official establishment for preparation in such finished form.
 6. Pork which has been refrigerated as specified in this subparagraph may be transferred in sealed railroad cars, sealed motortrucks, sealed trailers, or sealed closed containers to another official establishment at the same or another location, for use in the preparation of product covered by paragraph (2) of this section. The sealing of closed containers, such as boxes and slack barrels, shall be effected by cording and affixing thereto official Program seals, and such containers as tierces and kegs shall be held in Program custody by sealing with wax impressed with an official Program metal brand. Railroad cars, motortrucks, and trailers used to transport such pork shall, be sealed with official Program car seals except that sealed and marked closed containers may be shipped in unsealed railroad cars, motortrucks, and trailers. Shipping containers such as boxes, barrels, and tierces, containing pork refrigerated in accordance with this section, shall be plainly and conspicuously marked with a label or stencil furnished by the establishment, as follows: "Pork product degrees F. days' refrigeration," indicating the temperature of which the product was refrigerated and the length of time so treated. For each consignment there shall be promptly issued and forwarded by the inspector to the officer in charge at destination a report on the form entitled "Notice of Unmarked Meats Shipped in Sealed Cars," appropriately modified to show the character of the containers, and that the contents are "Pork product degrees F. days' refrigeration." A duplicate copy shall be retained in the office file.
- (e) **Curing—1. Sausage.** The sausage may be stuffed in animal casings, hydrocellulose casings, or cloth bags. During any stage of treating the sausage for the destruction of live trichinae, except as provided in Method 5, these coverings shall not be coated with paraffin or like substance, nor shall any sausage be washed during any prescribed period of drying. In the preparation of sausage, one of the following methods may be used:
1. (i) The meat shall be ground or chopped into pieces not exceeding three-fourths of an inch in diameter. A dry-curing mixture containing not less than $3\frac{1}{3}$ pounds of salt to each hundredweight of the unstuffed sausage shall be thoroughly mixed with the ground or chopped meat. After being stuffed, sausage having a diameter not exceeding $3\frac{1}{2}$ inches, measured at the time of stuffing, shall be held in a drying room not less than 20 days at a temperature not less than 45° F., except that in sausage of the variety known as pepperoni, if in casings not exceeding $1\frac{3}{8}$ inches in diameter measured at the time of stuffing, the period of drying may be reduced to 15 days. In no case, however, shall the sausage be released from the drying room in less than 25 days from the time the curing materials are added, except that sausage of the variety known as pepperoni, if in casings not exceeding the size specified, may be released at the expiration of 20 days from the time the

(Rule 0080-4-1-.146, continued)

- curing materials are added. Sausage in casings exceeding 3 1/2 inches, but not exceeding 4 inches, in diameter at the time of stuffing, shall be held in a drying room not less than 35 days at a temperature not lower than 45° F., and in no case shall the sausage be released from the drying room in less than 40 days from the time the curing materials are added to the meat.
- (ii) The meat shall be ground or chopped into pieces not exceeding three fourths of an inch in diameter. A dry curing mixture containing not less than 3 1/3 pounds of salt to each hundredweight of the unstuffed sausage shall be thoroughly mixed with the ground or chopped meat. After being stuffed, sausage having a diameter not exceeding 3 1/2 inches, measured at the time of stuffing, shall be smoked not less than 40 hours at a temperature not lower than 80° F., and finally held in a drying room not less than 10 days at a temperature not lower than 45° F. In no case, however, shall the sausage be released from the drying room in less than 18 days from the time the curing materials are added to the meat. Sausage exceeding 3 1/2 inches, but not exceeding 4 inches, in diameter at the time of stuffing, shall be held in a drying room, following smoking as above indicated, not less than 25 days at a temperature not lower than 45° F., but in no case shall the sausage be released from the drying room in less than 33 days from the time the curing materials are added to the meat.
- (iii) The meat shall be ground or chopped into pieces not exceeding three fourths of an inch in diameter. A dry curing mixture containing not less than 3 1/3 pounds of salt to each hundredweight of the unstuffed sausage shall be thoroughly mixed with the ground or chopped meat. After admixture with the salt and other curing materials and before stuffing, the ground or chopped meat shall be held at a temperature not lower than 34° F. for not less than 36 hours. After being stuffed, the sausage shall be held at a temperature not lower than 34° F. for an additional period of time sufficient to make a total of not less than 144 hours from the time the curing materials are added to the meat, or the sausage shall be held for the time specified in a pickle curing medium of not less than 50° strength (salometer reading) at a temperature not lower than 44° F. Finally, sausage having a diameter not exceeding 3 1/2 inches, measured at the time of stuffing, shall be smoked for not less than 12 hours. The temperature of the smokehouse during this period at no time shall be lower than 90° F., and for 4 consecutive hours of this period the smokehouse shall be maintained at a temperature not lower than 128° F. Sausage exceeding 3 1/2 inches, but not exceeding 4 inches, in diameter at the time of stuffing shall be smoked, following the prescribed curing, for not less than 15 hours. The temperature of the smokehouse during the 15-hour period shall at no time be lower than 90° F., and for 7 consecutive hours of this period the smokehouse shall be maintained at a temperature not lower than 128° F. In regulating the temperature of the smokehouse for the treatment of sausage under this method, the temperature of 128° F. shall be attained gradually during a period of not less than 4 hours.
- (iv) The meat shall be ground or chopped into pieces not exceeding one fourth of an inch in diameter. A dry curing mixture containing not less than 2 1/2 pounds of salt to each hundredweight of the unstuffed sausage shall be thoroughly mixed with the ground or chopped meat. After admixture with the salt and other curing materials and before stuffing, the ground or chopped sausage shall be held as a compact mass, not more than 6 inches in depth, at a temperature not lower than 36° F. for not less than 10 days. At the termination of the holding period, the sausage shall be stuffed in casings or cloth bags not exceeding 3 1/3 inches in

(Rule 0080-4-1-.146, continued)

diameter, measured at the time of stuffing. After being stuffed, the sausage shall be held in drying room at a temperature not lower than 45° F. for the remainder of a 35-day period, measured from the time the curing materials are added to the meat. At any time after stuffing, if the establishment operator deems it desirable, the product may be heated in a water bath for a period not to exceed 3 hours at a temperature not lower than 85° F., or subjected to smoking at a temperature not lower than 80° F., or the product may be both heated and smoked as specified. The time consumed in heating and smoking, however, shall be in addition to the 35-day holding period specified.

- (v) The meat shall be ground or chopped into pieces not exceeding three-fourths of an inch in diameter. A dry-curing mixture containing not less than 3 1/3 pounds of salt to each hundredweight of the unstuffed sausage shall be thoroughly mixed with the ground or chopped meat. After being stuffed, the sausage shall be held for not less than 65 days at a temperature not lower than 45° F. The coverings for sausage prepared according to this method may be coated at any stage of the preparation before or during the holding period with paraffin or other substance approved by the Administrator.
2. ~~Capocollo (Capicola, capicola). Boneless pork butts for capocollo shall be cured in a dry curing mixture containing not less than 4 1/2 pounds of salt per hundredweight of meat for a period of not less than 25 days at a temperature not lower than 36° F. If the curing materials are applied to the butts by the process known as churning, a small quantity of pickle may be added. During the curing period the butts may be overhauled according to any of the usual processes of overhauling, including the addition of pickle or dry salt if desired. The butts shall not be subjected during or after curing to any treatment designed to remove salt from the meat, except that superficial washing may be allowed. After being stuffed, the product shall be smoked for a period of not less than 30 hours at a temperature not lower than 80° F., and shall finally be held in a drying room not less than 20 days at a temperature not lower than 45° F.~~
 3. ~~Coppa. Boneless pork butts for coppa shall be cured in a dry curing mixture containing not less than 4 1/2 pounds of salt per hundredweight of meat for a period of not less than 18 days at a temperature not lower than 36° F. If the curing mixture is applied to the butts by the process known as churning, a small quantity of pickle may be added. During the curing period the butts may be overhauled according to any of the usual processes of overhauling, including the addition of pickle or dry salt if desired. The butts shall not be subjected during or after curing to any treatment designed to remove salt from the meat, except that superficial washing may be allowed. After being stuffed, the product shall be held in a drying room not less than 35 days at a temperature not lower than 45° F.~~
 4. ~~Hams and pork shoulder picnics. In the curing of hams and pork shoulder picnics either of the following methods may be used:~~
 - (i) ~~The hams and pork shoulder picnics shall be cured by a dry salt curing process not less than 40 days at a temperature not lower than 36° F. The products shall be laid down in salt, not less than 4 pounds to each hundredweight of product, the salt being applied in a thorough manner to the lean meat of each item. When placed in cure the products may be pumped with pickle if desired. At least once during the curing process the products shall be overhauled and additional salt applied, if necessary, so that the lean meat of each item is thoroughly covered. After removal from cure the products may be soaked in water at a temperature not~~

(Rule 0080-4-1-.146, continued)

higher than 70° F. for not more than 15 hours, during which time the water may be changed once; but they shall not be subjected to any other treatment designed to remove salt from the meat, except that superficial washing may be allowed. The products shall finally be dried or smoked not less than 10 days at a temperature not lower than 95° F.

- (ii) ~~The products shall be cured by a dry salt curing process at a temperature not lower than 36° F. for a period of not less than 3 days for each pound of weight (green) of the individual items. The time of cure of each lot of such products placed in cure shall be calculated on a basis of the weight of the heaviest item of the lot. Products cured by this method, before they are placed in cure, shall be pumped with pickle solution of not less than 100° strength (salometer), about 4 ounces of the solution being injected into the shank and a like quantity along the flank side of the body bone (femur). The products shall be laid down in salt, not less than 4 pounds of salt to each hundredweight of product, the salt being applied in a thorough manner to the lean meat of each item. At least once during the curing process the products shall be overhauled and additional salt applied, if necessary, so that the lean meat of each item is thoroughly covered. After removal from the cure the product may be soaked in water at a temperature not higher than 70° F. for not more than 4 hours, but shall not be subjected to any other treatment designed to remove salt from the meat, except that superficial washing may be allowed. The products shall then be dried or smoked not less than 48 hours at a temperature not lower than 80° F., and finally shall be held in a drying room not less than 20 days at a temperature not lower than 45° F.~~
- 5 ~~Boneless pork loins and loin ends. In lieu of heating or refrigerating to destroy possible live trichinae in boneless loins, the loins may be cured for a period of not less than 25 days at a temperature not lower than 36° F. by the use of one of the following methods:~~
- (i) ~~Application of a dry salt curing mixture containing not less than 5 pounds of salt to each hundredweight of meats.~~
 - (ii) ~~Application of a pickle solution of not less than 80° strength (salometer) on the basis of not less than 60 pounds of pickle to each hundredweight of meat.~~
 - (iii) ~~Application of a pickle solution added to the dry salt cure prescribed as Method No. 1 in this subdivision (5) provided the pickle solution is not less than 80° strength (salometer).~~
 - (iv) ~~After removal from cure, the loins may be soaked in water for not more than 1 hour at a temperature not higher than 70° F. or washed under a spray but shall not be subjected, during or after the curing process, to any other treatment designed to remove salt.~~
 - (v) ~~Following curing, the loins shall be smoked for not less than 12 hours. The minimum temperature of the smokehouse during this period at no time shall be lower than 100° F., and for 4 consecutive hours of this period the smokehouse shall be maintained at a temperature not lower than 125° F.~~
 - (vi) ~~Finally, the product shall be held in a drying room for a period of not less than 121 days at a temperature not lower than 45° F.~~

(Rule 0080-4-1.146, continued)

- (4) ~~General instructions: When necessary to comply with the requirements of this section, the smokehouses, drying rooms, and other compartments used in the treatment of pork to destroy possible live trichinae shall be suitably equipped, by the operator of the official establishment, with accurate automatic recording thermometers. Officers in charge are authorized to approve for use in sausage smokehouses, drying rooms, and other compartments, such automatic recording thermometers as are found to give satisfactory service and to disapprove and require discontinuance of use, for purposes of the regulations in this subchapter, any thermometers (including any automatic recording thermometers) of the establishment that are found to be inaccurate or unreliable.~~

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

0080-4-1.147 THROUGH 0080-4-1.152 REPEALED.

~~Authority: T.C.A. §4-5-225. Administrative History: Original rules certified June 5, 1974. Repeal by Public Chapter 261, effective July 1, 1983.~~

~~**0080-4-1.153 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LABELING AND PREPARATION OF STANDARDIZED PRODUCTS.** Labels for products for which standards of identity or composition are prescribed in this part shall show the appropriate product name, an ingredient statement, and other label information in accordance with the special provisions, if any, in this part, and otherwise in accordance with the general labeling provisions of this subchapter, and such products shall be prepared in accordance with the special provisions, if any, in this part and otherwise in accordance with the general provisions in this subchapter. Any product for which there is a common or usual name must consist of ingredients and be prepared by the use of procedures common or usual to such products insofar as specific ingredients or procedures are not prescribed or prohibited by the provisions of this subchapter.~~

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

0080-4-1.154 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: MISCELLANEOUS BEEF PRODUCTS.

- (1) ~~CHOPPED BEEF, GROUND BEEF "CHOPPED BEEF" OR "GROUND BEEF"~~ shall consist of chopped fresh and/or frozen beef with or without seasoning and without the addition of beef fat as such, shall not contain more than 30 percent fat, and shall not contain added water, binders, or extenders. When beef cheek meat (trimmed beef cheeks) is used in the preparation of chopped or ground beef, the amount of such cheek meat shall be limited to 25 percent; and if in excess of natural proportions, its presence shall be limited to 25 percent; and if in excess of natural proportions, its presence shall be declared on the label, in the ingredient statement required by this subchapter, if any, and otherwise contiguous to the name of the product.
- (2) ~~HAMBURGER. "HAMBURGER"~~ shall consist of chopped fresh and/or frozen beef with or without the addition of beef fat as such and/or seasoning, shall not contain more than 30 percent fat, and shall not contain added water, binders, or extenders. Beef cheek meat (Trimmed beef cheeks) may be used in the preparation of hamburger only in accordance with the conditions prescribed in paragraph (a) of this section.
- (3) ~~BEEF PATTIES. "BEEF PATTIES"~~ shall consist of chopped fresh and/or frozen beef with or without the addition of beef fat as such and/or seasonings. Binders or extenders and/or partially defatted beef fatty tissue may be used without added water or with added water only in amounts such that the product's characteristics are essentially that of a meat patty.
- (4) ~~FABRICATED STEAK.~~ Fabricated beef steaks, veal steaks, beef and veal steaks, or veal and beef steaks, and similar products, such as those labeled "Beef Steak, Chopped, Shaped, Frozen," "Minute

(Rule 0080-4-1.158, continued)

~~Steak, Formed, Wafer Sliced, Frozen," "Veal Steaks, Beef Added, Chopped, Molded, Cubed, Frozen, Hydrolyzed Plant Protein, and Flavoring" shall be prepared by comminuting and forming the product from fresh and/or frozen meat, with or without added fat, of the species indicated on the label. Such products shall not contain more than 30 percent fat and shall not contain added water, binders or extenders. Beef cheek meat (trimmed beef cheeks) may be used in the preparation of fabricated beef steaks only in accordance with the conditions prescribed in paragraph (a) of this section.~~

- (5) ~~PARTIALLY DEFATTED BEEF FATTY TISSUE.~~ "Partially Defatted Beef Fatty Tissue" is a beef byproduct derived from the low temperature rendering (not exceeding 120° F.) of fresh beef fatty tissue. Such product shall have a pinkish color and a fresh odor and appearance.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-1.155 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: MISCELLANEOUS PORK PRODUCTS.~~ Partially defatted pork fatty tissue. "Partially Defatted Pork Fatty Tissue" is a pork byproduct derived from the low temperature rendering (not exceeding 120° F.) of fresh pork fatty tissue, exclusive of skin. Such product shall have a pinkish color and a fresh odor and appearance.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-1.156 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: BARBECUED MEATS.~~ Barbecued meats, such as product labeled "Beef Barbecue" or "Barbecued Pork," shall be cooked by the direct action of dry heat resulting from the burning of hard wood or the hot coals therefrom for a sufficient period to assume the usual characteristics of a barbecued article, which include the formation of a brown crust on the surface and the rendering of surface fat. The product may be basted with a sauce during the cooking process. The weight of barbecued meat shall not exceed 70 percent of the weight of the fresh uncooked meat.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1.157 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: ROAST BEEF PARBOILED AND STEAM ROASTED.~~ "Roast Beef Parboiled and Steam Roasted" shall be prepared so that the weight of the finished product, excluding salt and flavoring material, shall not exceed 70 percent of the fresh beef weight. Beef cheek meat and beef head meat from which the overlying glandular and connective tissues have been removed, and beef heart meat, exclusive of the heart cap may be used individually or collectively to the extent of 5 percent of the meat ingredients in the preparation of canned product labeled "Roast Beef Parboiled and Steam Roasted." When beef cheek meat, beef head meat, or beef heart meat are used in the preparation of this product, its presence shall be reflected in the statement of ingredients.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1.158 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CORNED BEEF.~~ "Corned Beef" shall be prepared from beef briskets, navels, clods, middle ribs, rounds, rumps, or similar cuts using one or a combination of the curing ingredients specified in 318.7. Canned product labeled "Corned Beef" shall be prepared so that the weight of the finished product, excluding cure, salt, and flavoring material, shall not exceed 70 percent of the fresh beef weight. Corned beef other than canned shall be cured in pieces weighing not less than 1 pound, and if cooked, its weight shall not exceed the weight of the fresh uncured beef. Beef cheek meat, beef head meat and beef heart meat may be used to the extent of 5 percent of the meat ingredient in preparation of this product when trimmed as specified in 0080-4-1.157. When beef cheek meat, beef head meat, or beef heart meat are used in preparation of this product, its presence shall be reflected in the statement of ingredients. The application of curing solution to beef cuts, other than briskets, which are intended for bulk corned beef shall not result in an

(Rule 0080-4-1.158, continued)

increase in the weight of the finished cured product of more than 10 percent over the weight of the fresh uncured meat.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.159 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CORNED BEEF BRISKET.~~ In preparing "Corned Beef Brisket", the application of curing solution to the beef brisket shall not result in an increase in the weight of the finished cured product of more than 20 percent over the weight of the fresh uncured brisket. If the product is cooked, the weight of the finished product shall not exceed the weight of the fresh uncured brisket.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.160 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CORNED BEEF ROUND AND OTHER CORNED BEEF CUTS.~~ In preparing "Corned Beef Round" and other corned beef cuts, except "Corned Beef Briskets," the curing solution shall be applied to pieces of beef weighing, not less than one pound and such application shall not result in an increased weight of the cured beef product of more than 10 percent over the weight of the fresh uncured beef cut. If the product is cooked, the weight of the finished product shall not exceed the weight of the fresh uncured beef cut.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.161 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CURED BEEF TONGUE.~~ In preparing "Cured Beef Tongue," the application of curing solution to the fresh beef tongue shall not result in an increase in the weight of the cured beef tongue of more than 10 percent over the weight of the fresh uncured beef tongue.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.162 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CURED PORK PRODUCTS, UNSMOKED AND SMOKED.~~

- (1) ~~CURED, UNSMOKED PRODUCTS.~~ Cured, unsmoked, "Boneless Pork Shoulder," "Boneless Pork Shoulder Butts," or pieces of pork loin in casings or similar containers of consumer size, shall not contain more than 10 percent added substances as a result of the curing process.
- (2) ~~SMOKED PRODUCTS.~~ The weight of any smoked products such as "Ham," "Pork Shoulder," "Pork Shoulder Picnic," "Pork Shoulder Butt," or similar products, except such products prepared for canning, shall not exceed the weight of the fresh uncured article.
- (3) ~~OTHER COOKED, CURED PRODUCTS.~~ The preparation of any cooked, cured products, such as "Ham," "Pork Shoulder," "Pork Shoulder Picnic," "Pork Shoulder Butt," and "Pork Loin," or similar products, either by moist or dry heat (except such products prepared for canning), shall not result in the finished cooked product weighing more than the fresh uncured article.
- (4) ~~CURED, WATER ADDED PRODUCTS.~~ Products resembling standardized ham and other pork products of the kinds provided for in paragraph (2) or (3) of this section, which do not conform to such provisions because they contain added water not in excess of 10 percent of the weight of the fresh, uncured products, shall bear on their labels the term "Water Added," as a part of the product name, in prominent lettering not less than three-eighths inch in height, and if not placed in a consumer-size package labeled in accordance with this part and 0080-4-1.136 of this subchapter, shall be marked with the term "Water Added" the full length of the product. However, the

(Rule 0080-4-1-.162, continued)

Administrator may approve smaller lettering for labels of small packages, such as 4-ounce packages, when he finds that the size and style of the lettering in connection with the product name are such as to insure the prominence of the required terms. The qualifying phrase "Up to 10 percent" or equivalent phrase may be used in labeling such products in connection with the term "Water Added" at the option of the operator of the establishment, provided the qualifying phrase does not detract from the prominence of the term "Water Added."

- (5) ~~CANNED PRODUCTS.~~ The preparation of any canned products such as "Ham," "Pork Shoulder Picnic," or similar products, shall not result in an increase in weight of more than 8 percent over the weight of the fresh uncured article.
- (6) ~~PRESSED HAM, SPICED HAM AND SIMILAR PRODUCTS.~~ "Pressed Ham," "Pressed Ham with Natural Juices," "Spiced Ham," and similar products may contain finely chopped ham shank meat to the extent of 25 percent over that normally present in the boneless ham. The weight of the cured chopped ham prior to processing shall not exceed the weight of the fresh uncured ham, exclusive of the bone and fat removed in the boning operation, plus the weight of the curing ingredients and 3 percent moisture.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.163 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CHOPPED HAM.~~

- (1) ~~"Chopped Ham" is the semisolid meat food product, in the form of a compact mass with a limited amount of cooked-out juices, which is prepared with ham, curing agents, seasonings, and any of the optional ingredients listed in paragraph (2) of this section, in accordance with the provisions of subparagraphs (a), (b), and (c) of this paragraph.~~
- (a) ~~Fresh ham, cured ham, or smoked ham, or a mixture of two or more of such meat components may be used. The weight of the cured chopped ham prior to processing shall not exceed the weight of the fresh uncured ham and fresh uncured ham shank meat if any is used, exclusive of the bones and fat removed in the boning operations, plus the weight of the curing ingredients and 3 percent moisture.~~
- (b) ~~The curing agents that may be used, singly or in combination, are salt, sodium nitrate, sodium nitrite, potassium nitrate, and potassium nitrite. When sodium nitrate, sodium nitrite, potassium nitrate, or potassium nitrite is used, singly or in combination, the amount thereof shall not exceed that permitted in 0080-4-1-.143.~~
- (c) ~~The seasonings that may be used, singly or in combination, are salt, sugar (sucrose or dextrose), spice, and flavoring, including essential oils, oleoresins and other spice extractives.~~
- (2) ~~Chopped ham may contain one or more of the following optional ingredients:~~
- (a) ~~Finely chopped ham shank meat (fresh, cured, or smoked, or a combination thereof) to the extent of not more than 25 percent over that normally present in the boneless ham;~~
- (b) ~~Water, for the purpose of dissolving the curing agents, and not in excess of the amount permitted in paragraph (a) of this section;~~
- (c) ~~Monosodium glutamate;~~
- (d) ~~Hydrolyzed plant protein;~~

(Rule 0080-4-1.163, continued)

- (e) Corn syrup solids, corn syrup and glucose syrup, singly or in combination, in an amount not to exceed 2 percent (calculated on a dry basis) of all the ingredients used in preparing the chopped ham;
- (f) Disodium phosphate, sodium hexametaphosphate, sodium tripolyphosphate, sodium pyrophosphate, and sodium acid pyrophosphate, singly or in combination, in an amount not to exceed that permitted in 0080-4-1.143.
- (g) Ascorbic acid, sodium ascorbate, isoascorbic acid or sodium isoascorbate in an amount not to exceed that permitted in 318.7.
- (h) Dehydrated onions or onion powder;
- (i) Dehydrated garlic or garlic powder.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.164 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: SAUSAGE.~~ Except as otherwise provided in this section, or under the Poultry Products Inspection Act with respect to products consisting partly of poultry, sausage is the coarse or finely comminuted meat food product prepared from one or more kinds of meat or meat and meat byproducts, containing various amounts of water as provided for elsewhere in this part, and usually seasoned with conditioned proportions of condimental substances, and frequently cured. Certain sausage as provided for elsewhere in this part may contain binders and extenders: e. g., cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, isolated soy protein, nonfat dry milk, calcium reduced skim milk or dried milk. The finished product shall contain no more than 3.5 percent of these additives individually or collectively. Two percent of isolated soy protein shall be deemed equivalent to 3 1/2 percent of any one or more of these binders. Sausage may not contain phosphates except that uncooked pork from cuts cured with phosphates listed in 0080-4-1.143 may be used in cooked sausage.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.165 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: FRESH PORK SAUSAGE.~~ "Fresh Pork Sausage" is sausage prepared with fresh pork or frozen pork, or both, not including pork byproducts, and may be seasoned with condimental substances as permitted under 0080-4-1.137-.152 of this subchapter. It shall not be made with any lot of product which, in the aggregate, contains more than 50 percent analyzable fat. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.166 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: FRESH BEEF SAUSAGE.~~ "Fresh beef sausage" is sausage prepared with fresh beef or frozen beef, or both, not including beef byproducts, and may be seasoned with condimental substances as permitted under 0080-4-1.137-.152 of this subchapter. The finished product shall not contain more than 30 percent fat. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.167 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: BREAKFAST SAUSAGE.~~ "Breakfast Sausage" is sausage prepared with fresh and/or frozen meat, or meat and meat byproducts and may be seasoned with condimental substances as permitted in 0080-4-1.137-.152 of this subchapter. It shall not be made with any lot of products which, in the aggregate, contains more than 50 per cent analyzable fat. To

(Rule 0080-4-1.167, continued)

facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used. Extenders or binders as listed in Part 318 of this subchapter may be used to the extent of 3 1/2 percent of the finished sausage as permitted in 319.140.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.168 DEFINITIONS AND STANDARDS OF IDENTIFY OR COMPOSITION: WHOLE HOG SAUSAGE.~~ "Whole Hog Sausage" is sausage prepared with fresh and/or frozen meat from swine in such proportions as are normal to a single animal and may be seasoned with condimental substances as permitted in 0080-4-1.137-152 of this subchapter. It shall not be made with any lot of product which, in the aggregate, contains more than 50 percent analyzable fat. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.169 DEFINITIONS AND STANDARDS OF IDENTIFY OR COMPOSITION: SMOKED PORK SAUSAGE.~~ "Smoked Pork Sausage" is pork sausage that is smoked with hardwood or other approved nonresinous materials. It may be seasoned with condimental substances as permitted in 0080-4-1.137-152 of this subchapter. It shall not be made with any lot of product which, in the aggregate, contains more than 50 percent analyzable fat. To facilitate chopping or mixing, water, or ice may be used in an amount not to exceed 3 percent of the total ingredients used.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.170 DEFINITIONS AND STANDARDS OF IDENTIFY OR COMPOSITION: FRANKFURTER, WEINER, VIENNA, BOLOGNA, GARLIC BOLOGNA, KNOCKWURST, AND SIMILAR PRODUCTS.~~

"Frankfurter," "Wiener," "Vienna," "Bologna," "Garlic Bologna," "Knockwurst," and similar sausages are comminuted semi-solid meat food products which are prepared from one or more kinds of meat or meat and meat byproducts, poultry products, and other ingredients as permitted by this section, seasoned and cured using one or more of the curing agents in accordance with 0080-4-1.143 of this subchapter. The finished products shall not contain more than 30 percent fat. Water and/or ice may be used to facilitate chopping or mixing or to dissolve the curing ingredients, but the sausage shall contain no more than 10 percent of added water. One or more of the following binders or extenders may be used, which individually or collectively shall not exceed 3 1/2 percent of the total ingredients in the sausage, except that 2 percent of isolated soy protein shall be deemed to be the equivalent of 3 1/2 percent of any one or more of the other binders: dried milk, nonfat dry milk, calcium reduced dried skim milk, cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, and isolated soy protein. Partially defatted pork fatty tissue or partially defatted beef fatty tissue or a combination of both may be used in an amount not exceeding 15 percent of the meat and meat byproduct ingredients. These products may contain uncooked cured pork which does not contain any phosphates or contains only phosphates approved under 0080-4-1.137-152 of this subchapter. These sausage products also may contain poultry products which, individually or in combination, are not in excess of 15 percent of the total ingredients excluding water, in the sausage. Such poultry products must be free of kidneys and sex glands, and the amount of skin present must not exceed the natural proportion of skin present on the whole carcass of the kind of poultry used in the sausage, as specified in the regulations under the Poultry Products Inspection Act. For purposes of this subparagraph, poultry products means chicken or turkey, chicken or turkey meat, or chicken or turkey byproducts as defined in the regulations under the Poultry Products Inspection Act. They shall be designated in the ingredient statement on the label of such sausage in accordance with the provisions of said regulations. Sausage products within this section if labeled "all-meat" shall contain only beef, pork, veal, mutton, lamb, or goat meat, or chicken or turkey meat (without skin but otherwise as provided in this section), or any combination thereof, and condiments, curing agents and water as permitted by this section and 0080-4-1.143 of this subchapter. If labeled "all (species)," e.g., "All Beef Franks" or "All Pork Franks," these sausages shall contain only meat of the specified species, with condiments, curing agents, and water as permitted by this section and 0080-4-1.143 of this subchapter.

(Rule 0080-4-1.170, continued)

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.171 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CHEESEFURTERS AND SIMILAR PRODUCTS.~~ "Cheesefurters" and similar products are products in casings which resemble frankfurters except that they contain sufficient cheese to give definite characteristics to the finished article. They may contain cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, isolated soy protein, nonfat dry milk, calcium reduced skim milk, or dried milk. The finished product shall contain no more than 3.5 percent of these additives, individually and collectively, exclusive of the cheese constituent. In determining the maximum amount of the ingredients specified in this subparagraph which may be used, individually and collectively, in a product, 2 percent of isolated soy protein shall be considered the equivalent of 3.5 percent of any other ingredient specified in this subparagraph. When any such additive is added to these products, there shall appear on the label in a prominent manner, contiguous to the name of the product, the name of each such added ingredient, as for example, "Cereal Added," "With Cereal", "Potato Flour Added," "Cereal and Potato Flour Added," "Soy Flour Added," "Non-fat Dry Milk Added," "Cereal and Nonfat Dry Milk Added," as the case may be. These products shall contain no more than 10 percent of added water and/or ice, 30 percent fat and shall comply with the other provisions for cooked sausages that are in this subchapter.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.172 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LIVER SAUSAGE AND SIMILAR PRODUCTS.~~ "Liver Sausage" and "Braunschweiger" are sausages made from fresh and/or frozen pork and livers of livestock and may contain cured pork, beef and veal, and pork fat. Liver sausage may also contain beef and pork byproducts and pork skins. These products shall contain not less than 30 percent of liver computed on the weight of the fresh liver.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.173 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LUNCHEON MEATS.~~ "Luncheon Meat" is a cured, cooked meat food product made from comminuted meat. To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of luncheon meat in an amount not to exceed 3 percent of the total ingredients.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.174 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: MEAT LOAF.~~ "Meat Loaf" is a cooked meat food product in loaf form made from comminuted meat. To facilitate chopping or mixing, water or ice may be used in an amount not to exceed 3 percent of the total ingredients used.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.175 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: SCRAPPLE.~~ "Scrapple" shall contain not less than 40 percent meat and/or meat byproducts computed on the basis of the fresh weight, exclusive of bone. The meal or flour used may be derived from grain and/or soybeans.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.176 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CHILI CON CARNE.~~ "Chili con Carne" shall contain not less than 40 percent of meat computed on the weight of the fresh meat. Head meat, cheek meat, and heart meat exclusive of the heart cap may be used to the extent of 25 percent of the meat ingredients under specific declaration on the label. The mixture may contain not more than 8 percent, individually or collectively, of cereal, vegetable starch, starchy vegetable flour, soy flour, soy protein concentrate, isolated soy protein, dried milk, nonfat dry milk, or calcium reduced dried skim milk.

(Rule 0080-4-1-.176, continued)

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.177 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CHILE CON CARNE WITH BEANS.~~ "Chili-con-Carne-with-Beans" shall contain not less than 25 percent of meat computed on the weight of the fresh meat. Head meat, cheek meat, or heart meat exclusive of the heart cap may be used to the extent of 25 percent of the meat ingredient, and its presence shall be reflected in the statement of ingredients required by 0080-4-1-.136 of this subchapter.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.178 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: HASH.~~ "Hash" shall contain not less than 35 percent of meat computed on the weight of the cooked and trimmed meat. The weight of the cooked meat used in this calculation shall not exceed 70 percent of the weight of the uncooked fresh meat.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.179 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CORNED BEEF HASH.~~

- (1) ~~"CORNED BEEF HASH" is the semisolid food product in the form of a compact mass which is prepared with beef, potatoes, curing agents, seasonings, and any of the optional ingredients listed in paragraph (2) of this section, in accordance with the provisions of subparagraphs (a), (b), (c) and (d) of this paragraph and the provisions of paragraph (3) of this section.~~
- (a) ~~Either fresh beef, cured beef, or canned corned beef or a mixture of two or more of these ingredients, may be used, and the finished product shall contain not less than 35 percent of beef computed on the weight of the cooked and trimmed beef. The weight of the cooked meat used in this calculation shall not exceed 70 percent of the weight of the uncooked fresh meat.~~
- (b) ~~"Potatoes" refers to fresh potatoes, dehydrated potatoes, cooked dehydrated potatoes, or a mixture of two or more of these ingredients.~~
- (c) ~~The curing agents that may be used are salt, sodium nitrate, sodium nitrite, potassium nitrate, or potassium nitrite, or a combination of two or more of these ingredients. When sodium nitrate, or sodium nitrite, potassium nitrate, or potassium nitrite is used it shall be used in amounts not exceeding those specified in 318.7.~~
- (d) ~~The seasonings that may be used, singly or in combination, are salt, sugar (sucrose or dextrose), spice, and flavoring, including essential oils, oleoresins, and other spice extracts.~~
- (2) ~~CORNED BEEF HASH MAY CONTAIN ONE OR MORE OF THE FOLLOWING OPTIONAL INGREDIENTS:~~
- (a) ~~Beef cheek meat and beef head meat from which the overlying glandular and connective tissues have been removed, and beef heart meat, exclusive of the heart cap, may be used individually or collectively to the extent of 5 percent of the meat ingredients;~~
- (b) ~~Onions, including fresh onions, dehydrated onions, or onion powder;~~
- (c) ~~Garlic, including fresh garlic, dehydrated garlic, or garlic powder;~~
- (d) ~~Water;~~

(Rule 0080-4-1-179, continued)

- (e) Beef broth or beef stock;
 - (f) Monosodium glutamate;
 - (g) Hydrolyzed plant protein;
 - (h) Beef fat.
- (3) The finished product shall not contain more than 15 percent fat nor more than 72 percent moisture.
- (4) When any ingredient specified in paragraph (a) of this section is used, the label shall bear the following applicable statement: "Beef cheek meat constitutes 5 percent of the meat ingredient, or "Beef head meat constitutes 5 percent of the meat ingredient, or "Beef heart meat constitutes 5 percent of the meat ingredient." When two or more of the ingredients are used, the words "Constitutes 5 percent of meat ingredient" need only appear once.
- (5) Whenever the words "Corned beef hash" are featured on the label so conspicuously as to identify the contents, the statements prescribed in subparagraph (4) of this paragraph shall immediately and conspicuously precede or follow such name without intervening written, printed, or other graphic matter.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-180 DEFINITIONS AND STANDARDS OF IDENTITY OF COMPOSITION: MEAT STEWS.~~ Meat stews such as "Beef Stew" or "Lamb Stew" shall contain not less than 25 percent of meat of the species named on the label, computed on the weight of the fresh meat.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-181 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: TAMALES.~~ Tamales" shall be prepared with at least 25 percent meat computed on the weight of the uncooked fresh meat in relation to all ingredients of the tamales. When tamales are packed in sauce or gravy, the name of the product shall include a prominent reference to the sauce or gravy: for example, "Tamales With Sauce" or "Tamales With Gravy." Product labeled "Tamales With Sauce" or "Tamales With Gravy" shall contain not less than 20 percent meat, computed on the weight of the uncooked fresh meat in relation to the total ingredients making up the tamales and sauce or the tamales and gravy.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-182 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: SPAGHETTI WITH MEATBALLS AND SAUCE, SPAGHETTI WITH MEAT AND SAUCE, AND SIMILAR PRODUCTS.~~ "Spaghetti with Meat Balls in Sauce" and "Spaghetti with Meat and Sauce," and similar products shall contain not less than 12 percent of meat computed on the weight of the fresh meat. The presence of the sauce or gravy constituent shall be declared prominently on the label as part of the name of the product. Meatballs may be prepared with not more than 12 percent, singly and collectively, of farinaceous material, soy flour, soy protein concentrate, isolated soy protein, nonfat dry milk, calcium reduced dried skim milk, and similar substances.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-183 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: SPAGHETTI SAUCE WITH MEAT.~~ "Spaghetti Sauce with Meat" shall contain not less than 6 percent of meat computed on the weight of the fresh meat.

(Rule 0080-4-1-.183, continued)

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.184 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: TRIPE WITH MILK. "Tripe with Milk" shall be prepared so that the finished canned article, exclusive of the cooked-out juices and milk, will contain at least 65 percent tripe. The product shall be prepared with not less than 10 percent milk.~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.185 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: BEANS WITH FRANKFURTERS IN SAUCE, SAUERKRAUT WITH WIENERS AND JUICE, AND SIMILAR PRODUCTS. "Beans with Frankfurters in Sauce," "Sauerkraut with Wieners and Juice," and similar products shall contain not less than 20 percent frankfurters or wieners computed on the weight of the smoked and cooked sausage prior to its inclusion with the beans or sauerkraut.~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.186 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LIMA BEANS WITH HAM IN SAUCE, BEANS WITH HAM IN SAUCE, BEANS WITH BACON IN SAUCE, AND SIMILAR PRODUCTS. Lima Beans with Ham in Sauce," "Beans with Ham in Sauce," "Beans with Bacon in Sauce," and similar products shall contain not less than 12 percent ham or bacon computed on the weight of the smoked ham or bacon prior to its inclusion with the beans and sauce.~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.187 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: CHOW MEIN VEGETABLES WITH MEAT AND CHOP SUEY VEGETABLES WITH MEAT. "Chow Mein Vegetables with Meat" and "Chop Suey Vegetables with Meat" shall contain not less than 12 percent meat computed on the weight of the uncooked fresh meat prior to its inclusion with the other ingredients.~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.188 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: PORK WITH BARBECUE SAUCE AND BEEF BARBECUE SAUCE. "Pork with Barbecue Sauce" and "Beef with Barbecue Sauce" shall contain not less than 50 percent meat of the species specified on the label, computed on the weight of the cooked and trimmed meat. The weight of the cooked meat used in this calculation shall not exceed 70 percent of the uncooked weight of the meat. If uncooked meat is used in formulating the products, they shall contain at least 72 percent meat computed on the weight of the fresh uncooked meat. When cereal, vegetable flour, soy flour, soy protein concentrate, isolated soy protein, nonfat dry milk, calcium reduced dried skim milk, or similar substances are used in preparing products, there shall appear on the label in a prominent manner, the name of the product, the name of each such added ingredient, as for example "Cereal Added" or "With Cereal and Nonfat Dry Milk."~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.189 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: BEEF WITH GRAVY AND GRAVEY WITH BEEF. "Beef with Gravy" and "Gravy with Beef shall not be made with beef which, in the aggregate for each lot contains more than 30 percent trimmable fat, that is, fat which can be removed by thorough, practicable trimming and sorting.~~

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1-.190 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: MEAT PIES (RESERVED);~~**~~0080-4-1-.191 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: PIZZA;~~**

- (1) ~~"Pizza with Meat" is a bread base meat food product with tomato sauce, cheese, and meat topping. It shall contain cooked meat made from not less than 15 percent raw meat~~
- (2) ~~"Pizza with Sausage" is a bread base meat food product with tomato sauce, cheese, and not less than 12 percent cooked sausage or 10 percent dry sausage; e.g., pepperoni.~~

Authority: ~~T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.192 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: OLEOMARGARINE OR MARGARINE (RESERVED);~~**~~0080-4-1-.193 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: MIXED FAT SHORTENING (RESERVED);~~**

~~0080-4-1-.194 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LARD, LEAF LARD.~~ ~~"Lard" is the fat rendered from fresh, clean, sound fatty tissue from hogs with or without lard stearin or hydrogenated lard. The fatty tissues shall not include bones, detached skin, head skin, ears, tails, organs, windpipes, large blood vessels, scrap fat, skimmings, settlings, pressings, and similar materials, and the fatty tissues shall be reasonably free from muscle tissue and blood. "Leaf Lard" is lard prepared from fresh leaf fat.~~

Authority: ~~T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.195 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: RENDERED ANIMAL FAT OR A MIXTURE THEREOF;~~

- (1) ~~"Rendered Animal Fat," or any mixture of fats containing edible rendered animal fat, shall contain no added water, except that "Puff Pastry Shortening" may contain not more than 10 percent of water.~~
- (2) ~~"Rendered Pork Fat" is fat, other than lard, rendered from clean, sound carcasses, parts of carcasses, or edible organs from hogs, except that stomachs, bones from the head, and bones from cured or cooked pork are not included. The tissues rendered are usually fresh, but may be cured, cooked, or otherwise prepared and may contain some meat food products. Rendered pork fat may be hardened by the use of lard stearin and/or hydrogenated lard and/or rendered pork fat stearin and/or hydrogenated rendered pork fat.~~

Authority: ~~T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.196 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: DEVILED HAM, DEVILED TONGUE, AND SIMILAR PRODUCTS;~~

- (1) ~~"Deviled Ham" is a semiplastic cured meat food product made from finely comminuted ham and containing condiments. Deviled ham may contain added ham fat. Provided, that the total fat content shall not exceed 35 percent of the finished product. The moisture content of deviled ham shall not exceed that of the fresh unprocessed meat.~~
- (2) ~~The moisture content of "Deviled Tongue" and similar products shall not exceed that of the fresh, unprocessed meat.~~

Authority: ~~T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.197 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: POTTED MEAT FOOD PRODUCT AND DEVILED MEAT FOOD PRODUCT (RESERVED):~~

~~0080-4-1-.198 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: HAM SPREAD, AND SIMILAR PRODUCTS.~~ "Ham Spread," "Tongue Spread," and similar products shall contain not less than 50% of the meat ingredient named, computed on the weight of the fresh meat. Other meat and fat may be used to give the desired consistency provided it does not detract from the character of the spreads names.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.199 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: BREADED PRODUCTS.~~ The amount of batter and breading used as a coating for breaded product shall not exceed 30 percent of the weight of the finished breaded product.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.200 DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: LIVER MEAT FOOD PRODUCTS.~~ Meat food products characterized and labeled as liver products such as liver loaf, liver cheese, liver spread, liver paste, and liver pudding, shall contain not less than 30 percent of livers of livestock computed on the fresh weight of the livers.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.201 THROUGH 0080-4-1-.206 REPEALED:~~

~~Authority: T.C.A. §4-5-225. Administrative History: Original rules certified June 5, 1974. Repeal by Public Chapter 261; effective July 1, 1983.~~

~~0080-4-1-.207 RECORDS, REGISTRATION, AND REPORTS: REPORTS BY CONSIGNEES OF ALLEGEDLY ADULTERATED OR MISBRANDED PRODUCTS: SALE OR TRANSPORTATION AS VIOLATIONS.~~ Whenever the consignee of any product which bears an official inspection legend refused to accept delivery of such product on the grounds that it is adulterated or misbranded, the consignee shall notify the officer in charge, Meat and Poultry Inspection Program, Tennessee Department of Agriculture, of the kind, quantity, source, and present location of the product and the respects in which it is alleged to be adulterated or misbranded, and it will be a violation of the Act for any person to sell or transport, or offer for sale or transportation, or receive for transportation, any such product which is capable of use as human food and is adulterated or misbranded at the time of such sale, transportation, offer, or receipt: Provided, however, That any such allegedly adulterated or misbranded product may be transported to the official establishment from which it had been transported, in accordance with 0080-1-208-.234.

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1-.208 TRANSPORTATION: TRANSACTIONS PROHIBITED WITHOUT OFFICIAL INSPECTION LEGEND OR CERTIFICATES: EXCEPTIONS:~~

- ~~(1) No person shall sell, transport, offer for sale or transportation, or receive for transportation, any product which is capable of use as human food unless the product and its container, if any, bear the official inspection legend as required under 0080-4-1-.119-.135 and 0080-4-1-.136 of this subchapter or such product is exempted from the requirement of inspection.~~
- ~~(2) No carrier shall transport or receive for transportation (including transportation in the course of importation) and no person shall offer for such transportation any carcass, part thereof, meat or meat food product unless and until a certificate is made and furnished to such carrier in one of the forms prescribed in this part: Provided, That any product offered for importation into the State of Tennessee~~

(Rule 0080-4-1-.208, continued)

may be transported and offered and received for transportation without such certificate, if such product is conveyed prior to inspection, to an authorized place of inspection, in railroad cars or other means of conveyance, or packages, sealed with special official import meat seals of the USDA or with customs or consular seals or otherwise identified as provided in Parts of this subchapter. And provided, That no such certificate is required for any product exempted from inspection, on any article handled in accordance with 0080-4-1-.216(e), 5., 6. or 7.

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

0080-4-1-.209 THROUGH 0080-4-1-.214 REPEALED:

Authority: T.C.A. §4-5-225. *Administrative History:* Original rules certified June 5, 1974. Repeal by Public Chapter 261; effective July 1, 1983.

0080-4-1-.215 TRANSPORTATION: RETURNED PRODUCTS: CERTIFICATE; PERMIT; AND OTHER REQUIREMENT:

When it is claimed that any product which has theretofore been inspected and passed and marked with the inspection legend, has become adulterated or misbranded after it has been transported away from an official establishment, then, in order to ascertain whether it is adulterated or misbranded, it may be transported to the official establishment from which it had been transported, or to any other official establishment. In case of every such shipment, both the original and the duplicate of the permit shall be surrendered to the initial carrier and the carrier shall require and the shipper shall make, in triplicate, and deliver to the carrier two copies of a certificate in the following form:

Date _____ 19 _____

Name of carrier _____

Consignor _____

Point of shipment _____

Consignee _____

Destination _____

Number of permit _____

I hereby certify that the following described product has been Tennessee inspected and passed by the Tennessee Department of Agriculture and is so marked. It is alleged that the said product is adulterated or misbranded.

Kind of product	Amount and weight
_____	_____
_____	_____
_____	_____

 (Signature of shipper)

 (Address of shipper)

Authority: T.C.A. §§52-915-52-934 and 52-927. *Administrative History:* Original rule certified June 5, 1974.

~~0080-4-1.216 THROUGH 0080-4-1.222 REPEALED.~~

~~Authority: T.C.A. §4-5-225. Administrative History: Original rules certified June 5, 1974. Repeal by Public Chapter 261, effective July 1, 1983.~~

~~0080-4-1.223 TRANSPORTATION: Diverting of Shipments, Breaking of Seals, and Reloading by Carrier in Emergency; Reporting to Administrator.~~

- ~~(1) Shipments of inspected and passed product that bear the inspection legend may be diverted from the original destination without a reinspection of the articles, provided the waybills, transfer bills, running slips, conductor's card, or other papers accompanying the shipments are marked, stamped, or have attached thereto signed statements.~~
- ~~(2) In case of wreck or similar extraordinary emergency, the Department seals on a railroad car or other means of conveyance containing any inspected and passed product may be broken by the carrier, and if necessary, the articles may be reloaded into another means of conveyance, or the shipment may be diverted from the original destination, without another shipper's certificate; but in all such cases the carrier shall immediately report the facts to the Commissioner.~~

~~Authority: T.C.A. §§52-915-52-934 and 52-927. Administrative History: Original rule certified June 5, 1974.~~

~~0080-4-1.224 THROUGH 0080-4-1.235 REPEALED~~

~~Authority: T.C.A. §4-5-225. Administrative History: Original rules certified June 5, 1974. Repeal by Public Chapter 261, effective July 1, 1983.~~

Repeal

Chapter 0080-04-03

Regulations Relating to Soda Water and Nonalcoholic Beverages; Standard of Identity; Sanitation Plant Facilities;
Labeling

Chapter 0080-04-03 Regulations Relating to Soda Water and Nonalcoholic Beverages; Standard of Identity;
Sanitation Plant Facilities; Labeling is repealed in its entirety.

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE, FOOD AND DRUG DIVISION
(HAZARDOUS SUBSTANCES)**

**CHAPTER 0080-4-3
REGULATIONS RELATING TO SODA WATER AND NONALCOHOLIC BEVERAGES; STANDARD
OF IDENTITY; SANITATION PLANT FACILITIES; LABELING**

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0080-4-3-.01 DEFINITION. "Department" as used in Sections 1 through 13 means the State Department of Agriculture.

Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original rule certified June 5, 1974.

0080-4-3-.02 STANDARDS OF IDENTITY.

- (1) ~~Soda water is the class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60° F. It may contain buffering agents as provided in paragraph 5. of subsection (2) of this section. It either contains no alcohol or only such alcohol (not in excess of 0.5 percent by weight of the finished beverage) as is contributed by the flavoring ingredient used. Soda water designated by a name, including any proprietary name provided for in subsection (3), (4) and (5) of this section, which includes the word "cola" or a designation as a "pepper" beverage that, for years, has become well known as being made with kola nut extract and/or other natural caffeine-containing extracts, and thus as a caffeine-containing drink, shall contain caffeine in a quantity not to exceed 0.02 percent by weight.~~
- (2) Soda water may contain optional ingredients, but if any such ingredient is a food additive or a color additive within the meaning of section 201 (s) or (t) of the Federal Food, Drug and Cosmetic Act, it is used only in conformity with a regulation established pursuant to section 409 or 706 of the act. The optional ingredients that may be used in soda water in such proportions as are reasonably required to accomplish their intended effects are:
- (a) Nutritive sweeteners consisting of the dry or liquid form of sugar, invert sugar, dextrose, corn syrup, glucose syrup, sorbitol, or any combination of two or more of these.
- (b) One or more of the following flavoring ingredients may be added, in a carrier consisting of ethyl alcohol, glycerin, or propylene glycol:
1. Fruit juices (including concentrated fruit juices), natural flavoring derived from fruits, vegetables, bark, buds, roots, leaves and similar plant materials.
 2. Artificial flavoring.
 3. Natural and artificial color additives.

(Rule 0080-4-3-.02, continued)

4. ~~One or more of the acidifying agents acetic acid, adipic acid, citric acid, fumaric acid, lactic acid, malic acid, phosphoric acid, or tartaric acid.~~
 5. ~~One or more of the buffering agents consisting of the acetate, bicarbonate, carbonate, chloride, citrate, lactate, orthophosphate, or sulfate salts of calcium, magnesium, potassium, or sodium.~~
 6. ~~One or more of the emulsifying, stabilizing, or viscosity-producing agents brominated vegetable oils, carob bean gum (locust bean gum), glycerol ester of wood rosin, guar gum, gum acacia, gum tragacanth, hydroxylated lecithin, lecithin, methylcellulose, mono and diglycerides of fat forming fatty acids, pectin, polyglycerol esters of fatty acids, propylene glycol alginate, sodium alginate, sodium carboxymethylcellulose, sodium metaphosphate (sodium hexametaphosphate). When one or more of the optional ingredients mentioned above are used, dioctyl sodium sulfosuccinate may be used in a quantity not in excess of 0.5 percent by weight of such ingredients.~~
 7. ~~One or more of the foaming agents ammoniated glycyrrhizin, gum ghatti, licorice or glycyrrhiza, yucca (Joshua tree), Yucca (Mohave).~~
 8. ~~Caffeine, in an amount not to exceed 0.02 percent by weight of the finished beverage.~~
 9. ~~Quinine, in an amount not to exceed 83 parts per million by weight of the finished beverage.~~
 10. ~~One or more of the chemical preservatives ascorbic acid, benzoic acid, BHA, BHT, calcium disodium EDTA, erythorbic acid, glucose oxidase-catalase enzyme, methylparaben or propylparaben, nordihydroguaiaretic acid, propyl gallate, potassium or sodium benzoate, potassium or sodium bisulfite, potassium or sodium metabisulfite, potassium or sodium sorbate, sorbic acid, sulfur dioxide, or tocopherols; and in the case of canned soda water, stannous chloride in a quantity not to exceed 11 parts per million calculated as tin (Sn), with or without one or more of the other chemical preservatives listed in this subparagraph.~~
 11. ~~The defoaming agent dimethylpolysiloxane in an amount not to exceed 10 parts per million.~~
- (3) ~~The name of the beverage for which a definition and standard of identity is established by this section, which is neither flavored or sweetened, is soda water, club soda, or plain soda.~~
 - (4) ~~The name of each beverage containing flavoring and sweetening ingredients as provided for in subsection (2) of this section is ".....soda" or ".....soda water" or ".....carbonated beverage," the blank being filled in with the word or words that designate the characterizing flavor of the soda water; for example, "grape soda".~~
 - (5) ~~If the soda water is one generally designated by a particular common name, for example, ginger ale, root beer, or sparkling water, that name may be used in lieu of the name prescribed in subsections (3) and (4) of this section. For the purposes of this section, a proprietary name that is commonly used by the public as the designation of a particular kind of soda water, may likewise be used in lieu of the name prescribed in subsections (3) and (4) of this section.~~

(Rule 0080-4-3-.02, continued)

- (6) ~~Soda water that contains the optional ingredient caffeine as provided for in paragraph (h) of subsection (2) of this section, artificial flavoring, artificial coloring, or any combination of these shall be labeled to show that fact by the label statement "with" or ".....added," the blank being filled in with the word or words "caffeine," "artificial flavoring," "artificial coloring," or a combination of these words, as appropriate. If the soda water contains one or more of the optional ingredients set forth in paragraph 10. of subsection (2) of this section, which has or is intended to have a preservative effect in the finished beverage, it shall be labeled to show that fact by one of the following statements: ".....added as a preservative" or "preserved with....." the blank being filled in with the common name of the preservative ingredient. If soda water contains quinine salts, the label shall bear a prominent declaration either by use of the word "quinine" in the name of the article or by separate declaration.~~
- (7) ~~The label statements prescribed in subsection (6) of this section for declaring the optional ingredients present shall appear on a labeling surface of the beverage in such a manner as to render the statement likely to be read by the ordinary individual under customary conditions of purchase or use of such beverage. These statements shall immediately and conspicuously precede or follow the name of the beverage, wherever such name is prominently displayed, without intervening, written, printed, or graphic matter; Provided, that, where such name is part of a trademark or brand, then other written, printed, or graphic matter that is also a part of such trademark or brand may intervene if the label statements required by this section are so placed as to be conspicuously related to the name of the beverage.~~

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.03 SANITATION STANDARDS; FACILITIES.~~

- (1) ~~SURROUNDINGS: The outer premises of every nonalcoholic beverage plant shall be reasonably clean and well drained, free from any material or conditions that creates rodent and/or insect harborage and free from other nuisances and sources of contamination.~~
- (2) ~~BUILDING: The building or portion thereof employed for compounding flavored syrups and packaging carbonated beverages and similar beverages without carbonation shall be used for no other purposes, and shall be constructed of such material and design that it can be kept clean and maintained in a sanitary manner and condition. No domestic animals or birds shall be allowed in any portion of the building. Toilet room or living quarters shall not open directly into any room or area in which syrup or finished beverages are processed.~~
- (3) ~~ROOMS: A separate room shall be provided for compounding and mixing syrups; it shall be separated from other areas of the plant by a solid wall construction. Separate areas from the syrup room shall be provided for bottle washing; filling operation; receiving, storing and shipping; provided, however, that a separate partitioned room for filling beverage containers shall be required in all new construction on and after the effective date of this order. Syrup mixing and container filling operations may be located in the same room if approved by the Department. Variation from this requirement may be permitted where it is demonstrated to the Department of Agriculture that such separation is not necessary due to the design of the plant.~~
- (4) ~~FLOORS: The floors of rooms where ingredients are handled, compounded, mixed and processed or where containers or equipment are washed shall be constructed of concrete or other equally impervious material. They shall be smooth, easily cleaned, properly sloped, coved sealed wall joint, provided with trapped drains and kept in good repair; provided that storage rooms for storing dry ingredients, packaging materials, containers, supplies, need not be provided with drain.~~

(Rule 0080-4-3-.03, continued)

- (5) ~~WALLS & CEILING: Walls and ceiling in the syrup room, filling and washing area, shall have a moisture resistant, smooth, washable, light colored surface and shall be kept clean and in good repair. Walls may be of a darker color up to not more than 60 inches from the floor. With the approval of the Department, walls in the filling and washing area above 60 inches from the floor may be constructed of sound retarding material that is not conducive to multiplication of micro-organisms. When paint is used, it should be of the mold resistant type.~~
- (6) ~~DOORS AND WINDOWS: Effective means shall be provided to prevent access of insects and dust into syrup room or container filling area. Exterior hinged doors as well as door into syrup room shall be solid, tight, outward opening and self-closing. Windows shall be, glazed.~~
- (7) ~~LIGHTING: Lighting in all rooms and work areas shall be sufficient and adequate for the operation that is to be performed. Lights in processing areas where breakage may cause contamination of the product or ingredients shall be of the safety type or equipped with protective shields.~~
- (8) ~~VENTILATION: Natural or artificial ventilation shall be sufficient to prevent excessive condensation formation, mold, or objectionable odors and maintain sanitary conditions in the syrup room, container filling and washing areas or any area where necessary. Artificial ventilating systems are subject to Department approval.~~
- (9) ~~WATER SUPPLY: Water supply shall be readily accessible, of sufficient quantity and temperature for the procedure or process intended and of a safe, sanitary quality. There shall be no cross-connections between the safe water supply and any unsafe or questionable water supply, nor with sewage disposal system. There shall be evidence that the water supply has been approved by state or local authorities within past six months.~~
- (10) ~~TOILET FACILITIES: Toilet facilities shall be provided. The toilet room shall be kept clean, well lighted and ventilated and plumbing shall meet the State code. Toilet room doors shall be solid, tight and self-closing. Hot and cold running water, soap, single service towels or air dryer for hands shall be provided. A sign directing employees to wash their hands before returning to the plant shall be posted in all toilet rooms. Toilet soil lines shall be kept separate from industrial waste lines within plant.~~
- (11) ~~WASTE DISPOSAL: Liquid waste from plant shall be conveyed to proper facilities in compliance with State plumbing code. Other waste shall be handled and removed at intervals of such frequency as to preclude infestations of insects or rodents and the development of odors and other nuisances. Only clean waste receptacles may be brought into food handling room. Sewage disposal must comply with local and state public health ordinances and codes.~~

Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.

0080-4-3-.04 CONSTRUCTION AND REPAIR OF EQUIPMENT

- (1) ~~All equipment, containers and utensils used in the handling, processing, compounding, mixing, storage or transporting of beverages or beverage ingredients shall be smooth, impervious corrosion resistant, nontoxic, and in good repair and shall be constructed to permit adequate sanitation. Effective protection from contamination shall be maintained. Product contact surfaces shall be self-draining. Equipment shall be free of sharp internal corners. Welded or soldered areas shall be smooth and similar to the parent metal. All joints shall be flush. Piping shall be of sanitary design and installation. All temperature control equipment and control devices used on bottle washers shall be~~

(Rule 0080-4-3-.04, continued)

~~accurate and adequately maintained. The bottle washer shall be equipped with an indicating thermometer to record the temperature of the caustic wash solution. It shall be placed so as to be conveniently visible to the operator at all times.~~

- ~~(2) If the washing, filling, and crowning devices are not integral parts of one machine, but are performed by separate units of equipment, they shall be arranged to exclude manual contact with the necks or tops of the bottles between filling and crowning.~~
- ~~(3) Mixing and storage tanks, pipelines, filters, and other apparatus employed in the preparation and distribution of syrups shall be of sanitary construction and made of stainless steel or similar materials resistant to the action of syrup ingredients. All apparatus employed in syrup making shall be free from recesses and so constructed that all parts may be easily sanitized. All permanent in place syrup lines shall be sloped to drain. All syrup tanks shall be self-draining and provided with suitable covers. Mixing shall be by mechanical means performed so as to prevent contamination of the syrup.~~
- ~~(4) Carbonated water shall not be conveyed in pipelines of galvanized iron, lead, zinc, copper or other deleterious materials.~~

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.05 PROCESSING METHODS~~

- ~~(1) GENERAL SANITATION: The operations of receiving, segregating, holding, compounding, mixing, packaging and packing, storing, transporting, and handling shall be conducted in a sanitary manner. There shall be no contamination, adulteration, or deterioration of the product or its ingredients. Every plant manufacturing bottled beverages in reusable bottles or containers shall be equipped with suitable mechanical bottle washing apparatus, and with approved machines for carbonating, filling and crowning. Plant operations shall be performed in such a manner as to prevent the operator or his clothing from coming in contact with the beverages or sanitized product-contact surfaces.~~
- ~~(2) BOTTLE WASHING: Reusable glass containers used in the manufacture of soft drinks shall, before being refilled, be sanitized by being washed in an automatic washing machine. An indicating thermometer and caustic solution test equipment shall be used to ascertain the temperature and caustic strength of the washing solution. The washing solution shall consist of at least 3 percent caustic soda with a minimum contact period of 5 minutes and a temperature of 130° F. or an equivalent cleansing and sanitizing process. The bottles shall be rinsed free of washing solution with potable water. Single service containers may be sanitized by air or water rinsing machines. One trip (single service) containers such as bottles and cans, may be washed in a mechanical bottle washer, air or water rinsed. One trip containers that are not washed, air or water rinsed must be received in the plant covered with a tight fitting plastic shroud and shall be stored in such manner as to protect such containers from airborne and manual contamination.~~
- ~~(3) PREPARATION OF SYRUPS: Syrups shall be prepared in a sanitary manner. Every precaution shall be taken against contamination, absorption, or deleterious substances during the preparation and subsequent storage. Syrup tanks and vats shall be covered and constructed of stainless steel or other suitable noncorrosive material. The tanks shall be free from defects, self-draining, free from seams, and shall be of such construction as to be readily flushed, cleaned, and sanitized. Galvanized iron, lead, zinc, copper or brass-lined containers, pipelines, or apparatus of other deleterious materials shall not be used in preparation, storage or conveyance of acidified syrups or syrups of any nature~~

(Rule 0080-4-3-.05, continued)

which will react with the metal or chemical composition of the container. The syrup room shall be equipped with a wash sink and plumbed with a drain and hot and cold running water.

- (4) ~~FILLING AND CROWNING:~~ Bottles shall be filled and capped by means of automatic machinery, and neither the operator nor his clothes shall come in contact with any part of the bottle or machinery that might result in contamination of the product. Removal of the crown of imperfectly crowned bottles and recrowning shall not be permitted. Crowns which have been touched on the inner side by the operator, as may occur while adjusting the crowner, shall be discarded. Returnable bottles shall be inspected for any abnormal condition immediately before or after being filled.

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.06 CLEANING AND BACTERICIDAL TREATMENT.~~ Multiple-service containers, equipment and utensils used in the handling, processing, storing, or transporting of beverages or beverage ingredients shall be thoroughly cleaned after use. They shall be subjected effectively to an approved bactericidal process prior to each usage. The methods used shall be such that soft drinks and their ingredients shall not be contaminated or adulterated. Chemicals used for cleaning and bactericidal treatments shall have labels which identify the contents and stored in an approved manner. All pipelines, apparatus, and containers used in the manufacturing processes shall be thoroughly sanitized at adequate intervals, but never less frequently than once weekly. Apparatus and containers shall be washed and rinsed before sanitization. Fillers shall be cleaned and sanitized at the end of each day's operation and flushed with potable water before beginning operations. Since accepted industry practice permits syrup to remain in the syrup tanks and lines between periods of processing operations, the syrup tanks and lines will be cleaned and sanitized when emptied, as scheduled by the plant. After scheduled cleaning and sanitation, the syrup tanks and lines shall be flushed with potable water before beginning processing operations. Hot water, chlorine, or equally effective bactericidal agents are permissible for sanitization.

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.07 SANITARY CONTROLS.~~ To assure adequate sanitary control every plant manufacturing bottled carbonated beverages shall be adequately provided with apparatus for ascertaining the sanitizing strength of the soaker solution used in bottle washing. An indicating thermometer shall be used at the bottle-washing machine. If pipelines and other equipment are sanitized by hot water, additional thermometers shall be available at convenient locations. Caustic solution test equipment or some other suitable index for determining the causticity of the soaker solution shall be available at all times.

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.08 CONTROL OF INSECTS AND ANIMALS.~~ The soft drink plant shall be free of rodents, rodent harborage, insects, and insect-breeding places. Effective measures shall be used to control and eliminate insects, vermin, rodents and domesticated animals. Insecticides and rodenticides shall be properly identified, used and stored in a safe and acceptable manner. Restricted pesticides, as 1080, must be placed and removed only by a licensed exterminator.

~~Authority: T.C.A. §§52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-3-.09 STORAGE FACILITIES.~~ These facilities shall be clean, in good repair, and shall be provided with ample space for the storage of food substances, container closures, gaskets, cleaned utensils, and equipment, so as to prevent contamination and deterioration. Conveyers and cases shall be maintained in a clean condition. It is recommended that an 18-inch space between the stored products and the wall be provided.

(Rule 0080-4-3-.09, continued)

Authority: T.C.A. §§52-109 and 52-121. *Administrative History:* Original Rule certified June 5, 1974.

~~0080-4-3-.10 VEHICLES AND TRANSPORTATION.~~ Vehicles used to transport all products and materials shall be maintained in a clean condition to aid in protecting the product from contamination.

Authority: T.C.A. §§52-109 and 52-121. *Administrative History:* Original Rule certified June 5, 1974.

~~0080-4-3-.11 PERSONAL HYGIENE.~~ All personnel in processing rooms and areas shall have a current health certificate, wear clean outer clothing, and head coverings; be free of communicable disease, and infected cuts, open sores or other lesions on hands, arms or head; and wash hands before starting or returning to work. All personnel in processing room or areas of the plant shall practice good sanitation and shall not smoke, chew tobacco, expectorate, or eat in processing areas.

Authority: T.C.A. §§52-109 and 52-121. *Administrative History:* Original Rule certified June 5, 1974.

~~0080-4-3-.12 LABELING.~~

- (1) ~~All carbonated beverages, still drinks and mineral waters sold or offered for sale shall be plainly marked or labeled, capped, branded or tagged with:~~
 - (a) ~~The name of the beverage as set forth in Section 2 of these regulations.~~
 - (b) ~~The words "artificially colored," "artificially flavored" or "artificially colored and flavored" or with words equivalent thereto and acceptable to the department, if the product is artificially colored or artificially flavored, or both.~~
 - (c) ~~An accurate statement of the net contents of each bottle, can or other container in terms of fluid measure.~~
 - (d) ~~The common name of each ingredient used in its manufacture. Flavorings and coloring may be designated as such without specifically naming them. The requirements of this paragraph do not apply to a carbonated beverage the ingredients of which have been fully and correctly disclosed to the department on a form which the department shall furnish on request.~~
 - (e) ~~The name and principal place of business of the bottler or distributor responsible for placing the beverage on the market. This paragraph does not apply to carbonated beverages or still drinks, the container or crown of which is permanently and distinctly branded with the trade-mark or brand of the distributor or bottler thereof, if the trade-mark or brand is registered with the Secretary of State or the United States Government and a declaration is filed with the department, affirming the name, trade-mark or brand under which the beverage is to be sold and giving a full description of the area of the state in which such beverage is to be distributed and the name and address of the person responsible in such area for compliance with the Tennessee Food, Drug and Cosmetic Act as amended.~~

Authority: T.C.A. §§52-109 and 52-121. *Administrative History:* Original Rule certified June 5, 1974.

Repeal

Chapter 0080-04-06
Regulation for Bread and Bakery Products

Chapter 0080-04-06 Regulation for Bread and Bakery Products is repealed in its entirety.

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
FOOD AND DRUG DIVISION
(HAZARDOUS SUBSTANCES)**

**CHAPTER 0080-4-6
REGULATION FOR BREAD AND BAKERY PRODUCTS**

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0080-4-6-.01 Bakery Products-Definitions and Standards of Identity 0080-4-6-.02 Uniform Standard Bread Pan Sizes

~~0080-4-6-.01 BAKERY PRODUCTS: DEFINITIONS AND STANDARDS OF IDENTITY~~

- (1) ~~Enriched bread, enriched rolls and enriched buns or other bakery products to which vitamins and minerals have been added shall conform to the definitions and standards promulgated by the Food and Drug Administration as they appear in the Congressional Federal Register 21, Sections 17.1 through 17.5 as amended. (Section 401 of the "Federal Food, Drug and Cosmetic Act"; Section 52-109 of the "Tennessee Food, Drug and Cosmetic Act".)~~
- (2) ~~No bread, rolls, or buns shall be manufactured or offered for sale, which are artificially colored except as authorized by C.F.R. 21, 17.1 through 17.5.~~

~~Authority: T.C.A. §52-109, and 52-121. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-4-6-.02 UNIFORM STANDARD BREAD PAN SIZES~~

- (1) ~~Each loaf of bread or each unit of a twin or multiple loaf of bread made or offered for sale whether or not the bread is wrapped or sliced shall conform to the following weights and maximum pan sizes: All measurements are bottom outside pan sizes in inches:~~
 - (a) ~~1 lb. (16 oz.) Open Top: 4² x 9 1/2² x 3 1/4² Depth~~
 - (b) ~~1 lb. (16 oz.) Sandwich: 3 7/8² x 10 3/4² x 4² Depth~~
 - (c) ~~1 1/4 lb. (20 oz.) Open Top: 4 1/8² x 11 3/4² x 3 1/4² Depth~~
 - (d) ~~1 1/4 lb. (20 oz.) Sandwich: 3 7/8² x 12 3/4² x 4² Depth~~
 - (e) ~~1 1/2 lb. (24 oz.) Open Top: 4 1/4² x 13.0² x 3 1/2² Depth~~
 - (f) ~~1 1/2 lb. (24 oz.) Sandwich: 4² x 13 1/2² x 4 3/8² Depth~~
 - (g) ~~2 lb. (32 oz.) Sandwich: 4 1/2² x 15 7/8² x 4 1/2² Depth~~
- (2) ~~An additional pan size shall be authorized as follows:~~
 - ~~1 3/4 (28 oz.) Sandwich: 4² x 14 3/4² x 4 3/8 Depth~~

~~Permitted tolerances until January 1, 1975 are:~~

~~1/8 inch in width and 1/8 inch in depth and 3/8 inch in length.~~

- (3) ~~There shall be stated on the top panel of the bread label in at least one horizontal position the words "BALLOON LOAF" in lettering, the height of which shall be at least 3/4 inch.~~
- (4) ~~The present 1 1/2 lb., 16 inch sandwich loaf is permitted until January 1, 1975, under the following conditions: There shall be stated on each side of the label the words, BALLOON LOAF, in lettering of at least 1 1/2 inch in height and on the square end the same statement in 3/4 inch height.~~

(Rule 0080-4-6-.02, continued)

- (5) ~~The term loaf as used in this regulation shall mean a loaf which is baked in a pan of rectangular shape with either straight up or flair sides and either with or without a cover.~~
- (6) ~~The standard sizes do not apply to loaves of rye, french, or vienna style bread unless they are baked in a loaf which simulates a standard size. The standard weights and pan sizes do not apply to loaves baked and consumed on the premises. (Examples: The restaurant or grocery store baked loaf of eight ounces or less.)~~
- (7) ~~Variations in weight in excess of the declared weight are permitted.~~
- (8) ~~This regulation is to take effect as follows:~~
 - (a) ~~All loaf weights and labeling shall be brought into compliance with this regulation on or before July 1, 1972.~~
 - (b) ~~All requirements of the regulation become effective January 1, 1973.~~

~~*Authority: T.C.A. §52-109 and 52-121. Administrative History: Original Rule certified June 5, 1974.*~~

Repeal

Chapter 0080-04-07
Regulations on the Operation of Frozen Food Lockers

Chapter 0080-04-07 Regulations on the Operation of Frozen Food Lockers is repealed in its entirety.

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
FOOD AND DRUG DIVISION
(HAZARDOUS SUBSTANCES)**

**CHAPTER 0080-4-7
REGULATIONS ON THE OPERATION OF FROZEN FOOD LOCKERS**

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0080.4-7-.01 Grading System

0080-4-7-.01 GRADING SYSTEM.

(1) ~~THE RATING AND GRADING WILL BE AS FOLLOWS:~~

(a)	890-1000		Grade A
(b)	790-890		Grade B
(c)	650-790		Grade C
(d)	Below 650		Poor

(2) ~~If total score is less than 500 points, operator will be asked to close plant until regulations are complied with or penalty sections of Locker Law will be invoked.~~

- (a) ~~70 points~~—Chill room shall be kept clean at all times and all food must be at least four (4) inches off the floor. No food product shall be allowed to remain in chill room until it becomes molded, tainted or otherwise inedible. Any inedible food (bones, beef suet, etc.) must be kept in covered containers.
- (b) ~~50 points~~—Locker room or rooms shall be kept clean at all times and all food must be kept in lockers or other suitable protected containers. No food shall be stored on top of lockers or on floors of locker rooms. Food belonging to owner or operator may be stored in locker room provided that area is separated from, or closed off from remainder of locker room.
- (c) ~~30 points~~—Curing room shall be maintained in sanitary condition and no molded, tainted or otherwise inedible food allowed to accumulate.
- (d) ~~40 points~~—Each locker room must have permanent lights. This light shall be kept burning during the business hours and this light switch must not be available to the general public.
- (e) ~~40 points~~—Each locker room must have a buzzer or bell inside the main entrance door so it can be plainly seen by the patrons.
- (f) ~~100 points~~—Recording thermometers must be provided for each locker room and each chill room. The records shall be changed at regular intervals and kept on file in plant for at least a six months period. Temperatures must be maintained as provided for in Section 4, Chapter 143, Public Acts of 1947, which are as follows: Chill Room: 36° Fahrenheit— with 10° variance for short periods of time. Locker Room: Zero Fahrenheit or lower with 5° variance for short periods only. Sharp Freeze: 10° below Zero Fahrenheit or lower, except where forced air is used, a temperature of Zero Fahrenheit is permitted if diffusion-type evaporator or evaporators are used in the installation of the plant, with 5° variance in temperature for short time only.

(Rule 0080-4-7-.01, continued)

- (g) ~~30 points~~—Where toxic gas is used as refrigerant there shall be one gas mask readily available for use.
 - (h) ~~50 points~~—All food must be sharp frozen before being placed in refrigerated locker.
 - (i) ~~50 points~~—Locker plants shall have available suitable quantities of hot water to clean daily all tools and equipment that are used in processing food products.
 - (j) ~~50 points~~—Toilet facilities shall be kept clean and must be properly ventilated. Hand washing facilities shall be adjacent to toilet and kept well supplied with soap and towels.
 - (k) ~~60 points~~—Entire plant must be kept free of all types of rodents.
 - (l) ~~40 points~~—Plant must have adequate screening or other suitable means of excluding flies and plant must be kept free of roaches, water bugs and other insects.
 - (m) ~~40 points~~—All employees must have health cards and they must be readily available for inspection.
 - (n) ~~60 points~~—All tools and equipment used in processing must be properly cleaned after each operation.
 - (o) ~~50 points~~—Walls and ceilings must be kept in good repair and well painted.
 - (p) ~~40 points~~—Floors must be kept in good repair and kept clean.
 - (q) ~~30 points~~—All personnel handling food must wear clean clothes and hats, caps or hair nets.
 - (r) ~~50 points~~—Garbage must not be allowed to accumulate on outside of plants but food shall be kept in well covered containers and frequently removed from premises.
 - (s) ~~30 points~~—All employees must refrain from the use of tobacco while processing.
 - (t) ~~40 points~~—Grade and license must be framed and conspicuously displayed.
 - (u) ~~50 points~~—Where grocery and slaughterhouse (animal or chicken) or other sales establishments are operated in conjunction with the locker plant, they must be maintained in sanitary conditions at all times.
- (3) Nothing in these grading classifications will exempt the owner and/or the operator from complying with the specifications of the Refrigerator Locker Plant Law and the Tennessee Sanitary Food Handling Act.

Authority: T.C.A. §52-1114. Administrative History: Original Rule certified June 5, 1974.

Amendments

Paragraph 0080-04-09-.08(3) is amended by deleting the paragraph in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

Chapter 0080-04-09 Retail Food Store Sanitation

0080-04-09-.08 Compliance and Enforcement

- (3) Permit to Operate.
- (a) Prerequisite for Operation. A person shall not operate a food establishment without a valid permit to operate issued by the commissioner.
- (b) Submission 30 Calendar Days Before Proposed Opening. An applicant shall submit an application for a permit at least 30 calendar days before the date planned for opening a food establishment or the expiration date of the current permit for an existing facility. An applicant for licensure under this chapter shall remit its application and annual license fee to the department on or before July 1 of each year. All licenses issued under this chapter shall expire on June 30 following their issuance. If an applicant for renewal fails to remit payment of the license fee on or before July 15 of the licensure year for which renewal is sought, the applicant shall also be required to pay a late charge assessed under T.C.A. §43-1-703 prior to renewal of the applicant's license.
- (c) Form of Submission. A person desiring to operate a food establishment shall submit to the commissioner a written application for a permit on a form provided by the commissioner, which shall be completed in full. The department may deny any application for licensure that is not completed in accordance with this rule.
- (d) To qualify for a permit, an applicant shall:
1. Be an owner of the food establishment or an officer of the legal ownership;
 2. Comply with the requirements of this chapter;
 3. As specified under 0080-04-09-.08(4)(b)1, agree to allow access to the food establishment and to provide required information; and
 4. Pay the applicable permit fees at the time the application is submitted. Include with their application payment of an annual license fee as appropriate for the following categories of licenses. Food establishment license fees are determined in accordance with the degree of risk the establishment poses for outbreak of food borne illness. This determination is made by the department based on the nature of the establishment's operations. Fees designated under this rule shall be assessed as follows and in accordance with T.C.A. §43-1-703(f) as it may be amended from time to time:
 - (i) Food Establishment License, Risk Level 1: Tier 7 license fee;
 - (ii) Food Establishment License, Risk Level 2: Tier 4 license fee;
 - (iii) Food Establishment License, Risk Level 3: Tier 2 license fee.
- (e) Contents of the Application. The application shall include:
1. The name, birth date, mailing address, telephone number, and signature of the person applying for the permit and the name, mailing address, and location of the food establishment; Name of the applicant;
 2. Information specifying whether the food establishment is owned by an association, corporation, individual, partnership, or other legal entity; Proof of the applicant's registration in its state of incorporation, registration with the Tennessee Department of Revenue, or business licens~~26~~ issued by a local governmental authority;

3. Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, address of the principal place of business, and address of the establishment to be licensed;

4. Name and address of applicant's registered agent for service of process, if any;

35. A statement specifying whether the food establishment:

- (i) Is mobile or stationary and temporary or permanent, and
- (ii) Is an operation that includes one or more of the following:
 - (I) Prepares, offers for sale, or serves time/temperature control for safety food:
 - I. Only to order upon a consumer's request,
 - II. In advance in quantities based on projected consumer demand and discards food that is not sold or served at an approved frequency, or
 - III. Using time as the public health control as specified under 0080-04-09-.03(5)(a)9,
 - (II) Prepares time/temperature control for safety food in advance using a food preparation method that involves two or more steps, which may include combining time/temperature control for safety food ingredients; cooking; cooling; reheating; hot or cold holding; freezing; or thawing,
 - (III) Prepares food as specified under item 35(ii)(II) of this subparagraph for delivery to and consumption at a location off the premises of the food establishment where it is prepared,
 - (IV) Prepares food as specified under item 3(ii)(II) of this subparagraph for service to a highly susceptible population, Prepares only food that is not time/temperature control for safety food, or
 - (V) Does not prepare, but offers for sale only prepackaged food that is not time/temperature control for safety food;

4. ~~The name, title, address, and telephone number of the person directly responsible for the food establishment;~~

5. ~~The names, titles, and addresses of:~~

~~(i) The persons comprising the legal ownership as specified under part 2 of this subparagraph including the owners and officers, and~~

~~(ii) The local resident agent if one is required based on the type of legal ownership;~~

6. A statement signed by the applicant that attests to the accuracy of the information provided in the application;

7. Licensees shall notify the department in writing of any changes to the information or contents of an application within 30 days after the change takes place;

8. Other information required by the commissioner.

(f) New, Converted, or Remodeled Establishments. For food establishments that are required to submit plans as specified under 0080-04-09-.08(2)(a), the commissioner shall issue a permit to the applicant after:

1. A properly completed application is submitted;

2. The required fee is submitted;
 3. The required plans, specifications, and information are reviewed and approved; and
 4. A preoperational inspection as specified in 0080-04-09-.08(2)(e) shows that the establishment is built or remodeled in accordance with the approved plans and specifications and that the establishment is in compliance with this chapter.
- (g) Existing Establishments and Change of Ownership. As applicable, the commissioner may issue a permit to a new owner of an existing food establishment after an application is submitted, reviewed, and approved, and an inspection shows that the establishment is in compliance with this chapter. Persons licensed under this chapter shall be responsible for permitted facilities until: the applicable license expires, the department receives written notification from the licensee of a change in ownership for the licensed establishment, or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund license fees for early termination of any license under this chapter.
- (h) ~~Denial of Application for Permit, Notice. If an application for a permit to operate is denied, the commissioner shall provide the applicant with a notice that includes:~~
- ~~1. The specific reasons and chapter citations for the permit denial;~~
 - ~~2. The actions, if any, that the applicant must take to qualify for a permit; and~~
 - ~~3. Advisement of the applicant's right of appeal and the process and time frames for appeal that are provided in law.~~
- (i) ~~Responsibilities of the Permit Holder. Upon acceptance of the permit issued by the commissioner, the permit holder in order to retain the permit shall:~~
1. Comply with the provisions of this chapter including the conditions of a granted variance as specified under 0080-04-09-.08(1)(c)3, and approved plans as specified under 0080-04-09-.08(2)(b);
 2. If a food establishment is required under 0080-04-09-.08(2)(c) to operate under a HACCP plan, comply with the plan as specified under 0080-04-09-.08(1)(c)3;
 3. Immediately contact the commissioner to report an illness of a food employee or conditional employee as specified under 0080-04-09-.02(2)(a)2;
 4. Immediately discontinue operations and notify the commissioner if an imminent health hazard may exist as specified under 0080-04-09-.08(4)(d)1;
 5. Allow representatives of the commissioner access to the food establishment as specified under 0080-04-09-.08(4)(b)1;
 6. Replace existing facilities and equipment specified in 0080-04-09-.08(1)(a) with facilities and equipment that comply with this chapter if:
 - (i) The commissioner directs the replacement because the facilities and equipment constitute a public health hazard or nuisance or no longer comply with the criteria upon which the facilities and equipment were accepted,
 - (ii) The commissioner directs the replacement of the facilities and equipment because of a change of ownership, or
 - (iii) The facilities and equipment are replaced in the normal course of operation;
 7. Comply with directives of the commissioner including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued by the commissioner in regard to the permit holder's food establishment or in response to community emergencies;
 8. Accept notices issued and served by the commissioner according to law; and

9. Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with this chapter or a directive of the commissioner, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives.

~~(j) A permit shall not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another if the food operation changes from the type of operation specified in the application as specified under 0080-04-09-08(3)(e)3 and the change in operation is not approved.~~

Authority: T.C.A. §§ 4-3-203; 53-8-204.

Repeal

Chapter 0080-04-10 Standards for Good Manufacturing Practices

Chapter 0080-04-10 Standards for Good Manufacturing Practices is repealed in its entirety.

RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF QUALITY AND STANDARDS

~~CHAPTER 0080-04-10~~
~~STANDARDS FOR GOOD MANUFACTURING PRACTICES~~

TABLE OF CONTENTS

0080-04-10-01 Current Good Manufacturing Practices 0080-1-10-02 Shellfish Sanitation Standards

~~0080-04-10-01 CURRENT GOOD MANUFACTURING PRACTICES.~~

~~(1) The Commissioner of Agriculture adopts the federal standards titled "Current good manufacturing practice in manufacturing, packing, or holding human food" codified as 21 C.F.R. 110 and Published in the Federal Register at 51 FR 24475 and the following subsections codified and published as indicated:~~

~~(a) 29 C.F.R. 110 (A) at 51 FR 24475 as amended at 54 FR 24892.~~

~~(b) 29 C.F.R. 110 (B) at 51 FR 24475 as amended at 54 FR 24892.~~

~~(c) 29 C.F.R. 110 (C) at 51 FR 24475.~~

~~(d) 29 C.F.R. 110 (E) at 51 FR 24475.~~

~~**Authority:** T.C.A. § 53-1-207. **Administrative History:** Original rule filed May 27, 1994; effective September 28, 1994.~~

~~0080-04-10-02 SHELLFISH SANITATION STANDARDS.~~

~~(1) The Commissioner of Agriculture adopts the current version of the National Shellfish Sanitation Program Model Ordinance, as set forth in the Guide for the Control of Molluscan Shellfish, and published by the United States Department of Health and Human Services; Public Health Service; Food and Drug Administration, or the most current successor document.~~

~~**Authority:** T.C.A. § 4-3-203, 53-1-104 and 53-1-207. **Administrative History:** Original rule filed May 27, 1994; effective September 28, 1994. Amendment filed May 17, 2011; effective October 29, 2011.~~

Chapter 0080-04-13
Food Manufacturer, Processor, Warehouse, and Distributor Regulations

0080-04-13-.01 Applicability

- (1) This chapter applies to any person who operates in the state any factory, warehouse, establishment, or vehicle in which food is manufactured, processed, packed, held, or transported for introduction into commerce. However, these rules do not apply to any person whose operation is regulated under the Tennessee Egg Law, T.C.A. §53-2-101 et seq., the Dairy Law of the State of Tennessee, T.C.A. §53-3-101, et seq., or the Tennessee Meat and Poultry Inspection Act, T.C.A. §53-7-201 et seq.
- (2) Persons licensed under this chapter shall be responsible for permitted facilities until: the applicable license expires, the department receives written notification from the licensee of a change in ownership for the licensed establishment, or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund license fees for early termination of any license under this chapter.

Authority: T.C.A. §§ 4-3-203; 53-1-207.

0080-04-13-.02 Definitions

- (1) Terms in this chapter share those meanings of terms set forth in the Tennessee Food, Drug and Cosmetic Act, T.C.A. §53-1-101, et seq.
- (2) When used in this chapter, unless the context requires otherwise:
 - (a) Act means the Tennessee Food, Drug and Cosmetic Act, compiled at T.C.A. §53-1-101, et seq.;
 - (b) Dietary supplement, food supplement, or words of similar import mean a product taken by mouth that contains a dietary ingredient; is intended to supplement the diet; and is not intended for use as a drug under the Act;
 - (c) Dietary ingredient means one or more of the following components when used in a dietary supplement: vitamins, minerals, herbs or other botanicals, amino acids, enzymes, tissues from organs or glands, concentrates, metabolites, constituents, or extracts;
 - (d) Food means those articles as defined under the Act and includes dietary supplements.

Authority: T.C.A. §§ 4-3-203; 53-1-207.

0080-04-13-.03 License Application and Fees

- (1) All persons to whom these rules apply shall obtain a license in accordance with the Tennessee Food, Drug and Cosmetic Act and this chapter.
- (2) Application for issuance of any license under this chapter shall be made on forms provided by the department, which shall be completed in full and shall include:
 - (a) Name of the applicant;
 - (b) Proof of the applicant's registration in its state of incorporation, registration with the Tennessee Department of Revenue, or business license issued by a local governmental authority;
 - (c) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, address of the principal place of business, and address of the facility to be licensed;
 - (d) Name and address of applicant's registered agent for service of process, if any.

- (3) Licensees shall notify the department in writing of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) Applicants for licensure shall include with their application payment of an annual license fee as appropriate for the following categories of licenses. Fees designated under this rule shall be assessed in accordance with T.C.A. §43-1-703(f) as it may be amended from time to time.
- (a) Food Manufacturer License. A food manufacturer license is required for any factory or establishment in the state where food is manufactured, processed, or packed for introduction into commerce. Food manufacturer license fees are determined in accordance with the size of the manufacturer's facility and the degree of risk the manufacturer poses for outbreak of food borne illness. An establishment greater than 10,000 square feet must obtain a Large Facility license. An establishment equal to or smaller than 10,000 square feet must obtain a Small Facility license. Determination of a manufacturer's risk for outbreak of food borne illness is made by the department based on the nature of the manufacturer's operations. Fees applicable for a food manufacturer license are as follows:
1. Food Manufacturer License, Large Facility – Risk Level 1: Tier 11 license fee;
 2. Food Manufacturer License, Small Facility – Risk Level 1: Tier 10 license fee;
 3. Food Manufacturer License, Large Facility – Risk Level 2: Tier 7 license fee;
 4. Food Manufacturer License, Small Facility – Risk Level 2: Tier 5 license fee;
 5. Food Manufacturer License, Large Facility – Risk Level 3: Tier 3 license fee;
 6. Food Manufacturer License, Small Facility – Risk Level 3: Tier 2 license fee.
- (b) Food Warehouse License. A food warehouse license is required for any warehouse or establishment in the state where food is held for introduction into commerce. A food warehouse license is not required for any establishment licensed as a food manufacturer under this chapter or as a food establishment under R. 0080-04-09. Food warehouse license fees are determined in accordance with the degree of risk the warehouse poses for outbreak of food borne illness. This determination is made by the department based on the nature of the warehouse's operations. Fees applicable for a food warehouse license are as follows:
1. Food Warehouse License, Risk Level 1: Tier 11 license fee;
 2. Food Warehouse License, Risk Level 2: Tier 7 license fee;
 3. Food Warehouse License, Risk Level 3: Tier 3 license fee.
- (5) An applicant for licensure under this chapter shall remit its application and annual license fee to the department on or before July 1 of each year. All licenses issued under this chapter shall expire on June 30 following their issuance. If an applicant for renewal fails to remit payment of the license fee on or before July 15 of the licensure year for which renewal is sought, the applicant shall also be required to pay a late charge assessed under T.C.A. §43-1-703 prior to renewal of the applicant's license.
- (6) The department may deny any application for licensure that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203; 43-1-703; 53-1-207; 53-1-208.

0080-04-13-.04 Certificates of Free Sale

The fee for a Certificate of Free Sale is a Tier 2 fee under T.C.A. §43-1-703(f). No certificate of free sale shall be issued prior to receipt of the certificate fee.

Authority: T.C.A. §§ 4-3-203; 43-1-703; 53-1-207; 53-1-208.

0080-04-13-.05 Standards for Manufacturing and Processing

- (1) Acidified Foods. The department adopts by reference, as if fully stated herein, the federal standards for

acidified foods, compiled at 21 C.F.R. 108.25 and 21 C.F.R. 114, as either section or part may be amended from time to time.

- (2) Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The department adopts by reference, as if fully stated herein, the federal standards for good manufacturing, hazard analysis, and risk-based preventive controls, compiled at 21 C.F.R. 117, subparts A and B, as either subpart may be amended from time to time.
- (3) Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements. The department adopts by reference, as if fully stated herein, the federal standards for good practice in manufacturing, packaging, labeling, or holding dietary supplements, compiled at 21 C.F.R. 111, as the part may be amended from time to time.
- (4) Fish and Fishery Products. The department adopts by reference, as if fully stated herein, the federal standards for fish and fishery products, compiled at 21 C.F.R. 123, subparts A and C, as either subpart may be amended from time to time.
- (5) Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers. The department adopts by reference, as if fully stated herein, the federal standards for hermetically sealed low-acid foods, compiled at 21 C.F.R. 108.35 and 21 C.F.R. 113, as either section or part may be amended from time to time.

Authority: T.C.A. §§ 4-3-203; 53-1-207.

0080-04-13-.06 Standards for Labeling [RESERVED]

0080-04-13-.07 Notice of Enforcement Action Against Licensee

Notice of an enforcement action against a licensee, including but not limited to assessment of a civil penalty and conduct of an administrative hearing, shall be presumed properly served upon mailing of notice to licensee's address of record with the department.

Authority: T.C.A. §§ 4-3-203; 53-1-207.

New

Chapter 0080-04-14
Meat and Poultry Processor Regulations

0080-04-14-.01 Applicability

- (1) This chapter applies to any person who is required to be licensed under the Tennessee Meat and Poultry Inspection Act, T.C.A. §53-7-201, et seq. These rules do not apply to any person who is subject to the Federal Meat Inspection Act or the Federal Poultry Products Inspection Act, even if those acts otherwise exempt the person from federal requirements.
- (2) Persons licensed under this chapter shall be responsible for permitted facilities until: the applicable license expires, the department receives written notification from the licensee of a change in ownership for the licensed establishment, or the department receives written notification from the licensee desiring to terminate the license. The department shall not refund license fees for early termination of any license under this chapter.

Authority: T.C.A. §§ 4-3-203; 53-7-213.

0080-04-14-.02 Definitions

Unless the context requires otherwise, terms in this chapter share those meanings of terms set forth in the Tennessee Meat and Poultry Inspection Act, T.C.A. §53-7-201, et seq.

Authority: T.C.A. §§ 4-3-203; 53-7-213.

0080-04-14-.03 License Application and Fees

- (1) All persons to whom these rules apply shall obtain a license in accordance with the Tennessee Meat and Poultry Inspection Act and this chapter.
- (2) Application for issuance of any license under this chapter shall be made on forms provided by the department, which shall be completed in full and shall include:
 - (a) Name of the applicant;
 - (b) Proof of the applicant's registration in its state of incorporation, registration with the Tennessee Department of Revenue, or business license issued by a local governmental authority;
 - (c) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, address of the principal place of business, and address of the facility to be licensed;
 - (d) Name and address of applicant's registered agent for service of process, if any.
- (3) Licensees shall notify the department in writing of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) Applicants for licensure shall include with their application payment of an annual license fee as appropriate for the following categories of licenses.
 - (a) Slaughter Establishments, Meat Processing Establishments, and Poultry Eviscerating and Processing Plants. No annual fee is required for those licenses and inspections designated under T.C.A. §53-7-219.
 - (b) Custom Slaughter Facility License. A custom slaughter facility license is required for any facility in the state engaged in the business of slaughtering or dressing animals for human consumption that are not to be sold or offered for sale. The fee for a Custom Slaughter Facility License is a Tier 3 fee under T.C.A. §43-1-703(f).
- (5) An applicant for licensure under this chapter shall remit its application and annual license fee to the department on or before July 1 of each year. All licenses issued under this chapter shall expire on June 30 following their issuance. If an applicant for renewal fails to remit payment of the license fee on or before July 15 of the licensure year for which renewal is sought, the applicant shall also be required to pay a late charge assessed under T.C.A. §43-1-703 prior to renewal of the applicant's license.
- (6) The department may deny any application for licensure that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203; 43-1-703; 53-7-213; 53-7-216.

0080-04-14-.04 Standards for Processing

Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food. The department adopts by reference, as if fully stated herein, the federal standards for good manufacturing, hazard analysis, and risk-based preventive controls, compiled at 21 C.F.R. 117, subparts A and B, as either subpart may be amended from time to time.

Authority: T.C.A. §§ 4-3-203; 53-1-207; 53-7-213.

0080-04-14-.05 Standards for Labeling [RESERVED]

0080-04-14-.06 Notice of Enforcement Action Against Licensee

Notice of an enforcement action against a licensee, including but not limited to assessment of a civil penalty and conduct of an administrative hearing, shall be presumed properly served upon mailing of notice to licensee's address of record with the department.

Authority: T.C.A. §§ 4-3-203; 53-1-213.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Agriculture (board/commission/ other authority) on 11/30/2015 (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: 06/09/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 08/06/2015

Date: Nov. 30, 2015

Signature: Julius T. Johnson

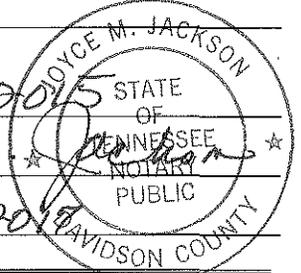
Name of Officer: Julius T. Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: Nov. 30, 2015

Notary Public Signature: Joyce M. Jackson

My commission expires on: 09/11/2017



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

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

12/18/2015
Date

Department of State Use Only

Filed with the Department of State on: 12/23/15

Effective on: 3/22/16

Tre Hargett
Tre Hargett
Secretary of State

SECRETARY OF STATE PUBLICATIONS

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RECEIVED

G.O.C. STAFF RULE ABSTRACT

AGENCY: Alcoholic Beverage Commission

SUBJECT: Local Option Liquor Rules

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 57-1-209 and 57-3-406(d)

EFFECTIVE DATES: March 17, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: This rulemaking hearing rule specifies that an expired government-issued identification document does not meet the requirement of being a valid identification document for purposes of making a purchase from a retail package store. This rule does not affect present law, which authorizes sales to persons who reasonably appear to be 50 years of age or older without requiring the presentation of identification.

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.

Copy of memo summarizing responses to comments is attached.



STATE OF TENNESSEE
ALCOHOLIC BEVERAGE COMMISSION
DAVY CROCKETT TOWER
500 JAMES ROBERTSON PKWY, 3rd FLOOR
NASHVILLE, TENNESSEE 37243-0755



PHONE 615.741.1602

FAX 615.741.0847

MEMO

From: E. Keith Bell, Director *EKB*

Re: Responses to comments made at public rulemaking hearing

Date: August 5, 2015

On April 20, 2015, a rulemaking hearing was held in accordance with the law. At the hearing, comments were made regarding proposed amendment to Rule 0100-03-.13(15). These comments can be summarized as asking that the proposed rule be modified to: (1) cap any fine amount issued by the Tennessee Alcoholic Beverage Commission (TABC) for a violation of this rule to \$150 and (2) specify that retail package stores are not required to check the identification of patrons who reasonably appear over the age of 50.

Regarding the proposed cap on the fine amount of the violation, as the proposed rule is currently drafted Rule 0100-05-.04(5) would apply which specifies that, in lieu of suspension or revocation, a fine may be levied for a violation in the amount of between \$100 and \$750. This current cap is half of the amount statutorily authorized to be imposed by T.C.A. § 57-1-201. This limitation already places a sufficient cap on the amount that can be charged as fines for such violations.

Regarding the second proposal, at the hearing it was stated that this could not be done by rule as it would have been in direct conflict with T.C.A. § 57-3-406(d) as it read at that time. Since then, Chapter 428 of the Public Acts of 2015 has been passed that revised T.C.A. § 57-3-406(d) to specify that retail package stores are not required to check the identification of patrons who reasonably appear over the age of 50. As such, any modification of the proposed rule regarding this would now be moot.

Regulatory Flexibility Addendum

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

(If applicable, insert Regulatory Flexibility Addendum here)

Exemptions from requirements of T.C.A. §4-5-401, et seq.: T.C.A. §4-5-404 states that §4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

Economic Impact Statement for Proposed Rule

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

Any small business that is licensed as a retail package store. There are roughly 624 retail package stores currently licensed in the state.

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

There are no projected reporting or recordkeeping costs associated with this rule. Any potential increase in administrative costs is expected to be de minimus.

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

The proposed rule would require consumers to provide, and small business retail package stores to only accept, unexpired government issued ID's prior to the purchase of alcoholic beverages or beer.

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

The proposed rule is necessary to clarify what a "valid" government issued ID is and provide guidance and clarity to small business and consumers regarding this issue and to reduce the use of fraudulent identification, and there are no less burdensome, intrusive, or costly alternative methods to accomplish this.

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

This proposed rule is comparable to other similar requirements in this state requiring unexpired identifications, except in the case of voting in which case an expired identification has been deemed to be acceptable for purposes of voting, but it should be noted that voting is a constitutional right that enjoys certain constitutional protections that do not apply to the purchase of alcoholic beverages which is not a constitutional right.

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:

An exemption of small businesses would create a disparate and unfair impact on the other licensees of the commission and would negatively impact the duties and responsibilities of the commission.

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 is not anticipated to have an impact on local governments.

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Sequence Number: 12-14-15
Rule ID(s): 6077
File Date: 12/18/15
Effective Date: 3/17/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person/Disc Acquisition Contact:	E. Keith Bell
Address:	Davy Crockett Tower, 500 James Robertson Parkway, 3rd Floor, Nashville,
Zip:	37243
Phone:	615.741.1602
Email:	Keith.Bell@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
0100-03	Local Option Liquor Rules
Rule Number	Rule Title
0100-03-.13	Conduct of Business-Wholesaler and Retailer

Chapter Number	Chapter Title
Rule Number	Rule Title

RED LINE – RULE 0100-03-.13(15)

AMENDMENTS TO CHAPTER 0100-03-.13 CONDUCT OF BUSINESS

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

Rule 0100-03-.13 Conduct of Business – Wholesaler and Retailer

- (15) Any government-issued document that has expired shall not be deemed to be "valid" for purposes of T.C.A. § 57-3-406(d), and as such, a retailer may not sell alcoholic beverages to a person who has not provided an unexpired government-issued document that meets the requirements of T.C.A. § 57-3-406(d).

Authority: T.C.A §§ 57-1-209; 57-3-104(c)(4); 57-3-406(d). **Administrative History:**

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel	✓				<i>Mary McDaniel</i>
John Jones	✓				<i>John a Jones</i>
Bryan Kaegi	✓				<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission (board/commission/ other authority) on 11/17/2015 (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: 03/02/2015

Rulemaking Hearing(s) Conducted on: (add more dates). 04/20/2015

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Date: 11-17-15

Signature: *E. Keith Bell*

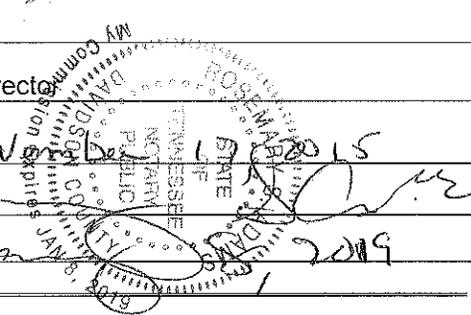
Name of Officer: E. Keith Bell

Title of Officer: TABC Executive Director

Subscribed and sworn to before me on: November 17, 2015

Notary Public Signature: *[Signature]*

My commission expires on: January 1, 2019



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

Herbert H. Slatery III

Herbert H. Slatery III
 Attorney General and Reporter

Dec. 1, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/18/15

Effective on: 3/17/16

Tre Hargett
 Tre Hargett,
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

<u>AGENCY:</u>	Alcoholic Beverage Commission
<u>SUBJECT:</u>	Production, Sale and Transport of Wine
<u>STATUTORY AUTHORITY:</u>	Tenn. Code Ann., Section 57-1-209(a)
<u>EFFECTIVE DATES:</u>	March 17, 2016, through June 30, 2016
<u>FISCAL IMPACT:</u>	None
<u>STAFF RULE ABSTRACT:</u>	<p>This rulemaking hearing rule makes various changes and additions to the current rules concerning wine, as follows:</p> <ul style="list-style-type: none">• Requirements for wine production, transport and sales by farm wine producers are specified, pursuant to Tenn. Code Ann., Section 57-3-207(o);• Wineries that produce 50,000 gallons or less per year will be eligible to obtain self-distribution permits, as authorized by Tenn. Code Ann., Section 57-3-207(q);• Wineries and farm wine producers will be eligible to obtain permits for up to two satellite facility locations, as authorized by Tenn. Code Ann., Section 57-3-207(r);• Wineries and farm wine producers will be eligible to obtain licensure as a restaurant or limited service restaurant, as authorized by Tenn. Code Ann., Section 57-3-207(s);• Wineries, farm wine producers and satellite facility locations will be authorized to sell prepared and unprepared food on the premises that compliments the serving, sampling or consumption of wine, as authorized by Tenn. Code Ann., Section 57-3-207(h)(1)(E); and• Various cross references and citations are corrected and some stylistic changes are made, such as the use of gender-neutral language.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process 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.

Exemptions from requirements of T.C.A. §4-5-401, et seq.: T.C.A. §4-5-404 states that §4-5-401, et seq. "shall not apply to rules that are adopted on an emergency basis under part 2 of this chapter, that are federally mandated, or that substantially codify existing state or federal law."

Economic Impact Statement for Proposed Rule

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

Any small business that is licensed as, or is seeking or intends to seek licensure as, a winery or farm winery. There are roughly 53 wineries and 11 farm wineries currently licensed in the state.

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 projected reporting, recordkeeping, and administrative costs associated with this rule is expected to be minimal as the only increase in such costs caused by the proposed rule would be due to the proposed requirement that an applicant for a winery or farm winery license submit a certificate of existence issued by the Tennessee Secretary of State, if applicable.

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

The proposed rule would bring additional clarity to impacted small business regarding the rules and laws of wineries and farm wineries. The proposed rule also expands the items that a winery may sell to include food, for consumption on the premises, that compliments the serving, sampling, or consumption of wine.

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

The proposed rule is necessary to clarify current law and to update the rules to be in compliance with current law, and there are no less burdensome, intrusive, or costly alternative methods to accomplish this. In addition, the proposed rule also would expand the items that a winery may sell to include food, for consumption on the premises, that compliments the serving, sampling, or consumption of wine, and this change is beneficial, not burdensome, to small businesses.

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

This proposed rule is offered largely to update the existing rules to be in compliance with current law.

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:

An exemption of small businesses would create a disparate and unfair impact on the other licensees of the commission, would negatively impact the duties and responsibilities of the commission, and in some aspects would be detrimental to small businesses.

Impact on Local Governments

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

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

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Sequence Number: 12-17-15
Rule ID(s): 6080
File Date: 12/18/15
Effective Date: 3/17/16

Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Alcoholic Beverage Commission
Division:	
Contact Person/Disc Acquisition Contact:	E. Keith Bell
Address:	Davy Crockett Tower, 500 James Robertson Parkway, 3rd Floor, Nashville, TN
Zip:	37243
Phone:	615.741.1602
Email:	Keith.Bell@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
0100-07	Production, Sale and Transport of Wine
Rule Number	Rule Title
0100-07-.01	Applications For Winery and Farm Wine Producer License
0100-07-.02	Production Of Wine By Winery And Farm Wine Producer Licensees
0100-07-.03	Sales Of Wine By Wineries And Farm Wine Producers
0100-07-.04	Satellite Facilities
0100-07-.05	Restaurants
0100-07-.06	Self-Distribution
0100-07-.07	Transportation Of Wine Produced By Licensed Wineries And By Farm Wine Producers
0100-07-.08	Sale Of Other Wine Related Items
0100-07-.09	Statutes Applicable To Winery Licensees

Chapter Number	Chapter Title
Rule Number	Rule Title

**RULES
OF
ALCOHOLIC BEVERAGE COMMISSION**

**CHAPTER 0100-07
PRODUCTION, SALE AND TRANSPORT OF WINE**

TABLE OF CONTENTS

0100-07-.01	Applications for Winery Licenses	0100-07-.08	Sale of Other Wine Related Items
0100-07-.02	Production of Wine by Winery Licensees	0100-07-.09	Statutes Applicable to Winery
0100-07-.03	Sale of Wine by Wineries		
0100-07-.04	Satellites		
0100-07-.05	Restaurants		
0100-07-.06	Self Distribution		
0100-07-.07	Transportation of Wine Produced By Licensed Wineries		

0100-07-.01 — APPLICATIONS FOR WINERY AND FARM WINE PRODUCER LICENSES.

(1) Application – An application for ~~such~~ a license shall be made on forms provided for such purpose by the Commission. In addition to completing and filing such forms, an applicant shall provide the Commission with the following information:

(a) ~~(a)~~ Proof of a right to possession in the proposed licensed premises.

(b) ~~(b)~~ If the applicant is not a sole proprietor, evidence of the legal form in which the business is to be operated, and a certificate of existence from the Tennessee Secretary of State.

~~(c) Corporate Charter if corporation.~~

~~(c)~~ ~~(d)~~ If formed as a Corporation, LLC or LP, a copy of the Charter and certificate of existence.

~~(e)~~ ~~(d)~~ Approval of appropriate authorities in the jurisdiction where the winery is to be located of the use and occupancy of the building(s).

~~(d)~~ ~~(e)~~ Completed questionnaires from each owner, partner, member, principal manager or officer.

~~(e)~~ ~~(f)~~ Approval of the Tennessee Department of Agriculture.

The application and accompanying documents shall be filed with the Tennessee Alcoholic Beverage Commission.

(2) The license issued hereunder shall apply to only one winery premise as defined hereafter.

(3) No person with any interest in a winery or farm wine producer license shall have any kind of interest (financial, fixtures, furnishings, stock ownership, loans, gifts, securing loans, leases) or participate in the profits either directly or indirectly, in any wholesale or retail liquor alcoholic beverage establishment or any entity possessing a liquor-by-the-drink permit.

(Rule 0100-07-.02, continued)

other than a restaurant or limited service restaurant as authorized pursuant to T.C.A. § 57-3-207(s)(1).

- (4) Transfer. A winery licensee may transfer locations only with the specific approval of the Commission. Such permission shall be sought by filing an application for the new premises along with the information required by Rule 0100-~~0407~~-01 (a), (d), (e) and (f).

Authority: ~~T.C.A. §§57-1-209 and; 57-3-104(c)(4); 57-3-207.~~ **Administrative History:** Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-07-.02 — PRODUCTION OF WINE BY WINERY AND FARM WINE PRODUCER LICENSEES.

(1) The holder of a winery license may produce and bottle wine as defined by T.C.A. § 57-3-~~101(16)~~-24.

(2) The holder of a farm wine producer's license may cause to be produced wine, provided said wine contains a minimum of ninety-five percent (95%) of the product of vineyards, fruit orchards or fruit gardens grown and harvested at the farm as the wine being sold by the farm wine producer, as set out in T.C.A. § 57-3-207(o)(1)(A),(B) & (C) et seq.

(3) Samples of each type of wine produced shall be maintained at the winery or the farm wine producer's premises for a one year period after bottling.

~~(3) For the purposes of the ABC rules, "winery premises" shall mean the locations at which fermentation and bottling takes place and locations where wine is sold. It does not include the site where fruits, berries or vegetables are being grown for use in such winery.~~

~~(4) (4) Except as otherwise specified, "premises" or "licensed premises" shall mean all contiguous property owned or leased by the winery or by the farm wine producer, except for the bonded areas.~~

(5) Records shall be kept for a period of three calendar years which demonstrate the source of all agricultural products used in the production of wine by a winery licensee.

~~(5) All Tennessee licensed wineries must file with the Commission any and all contracts and/or other documentation an intention to purchase of grapes with Tennessee grape growers by the date set forth in Tennessee statutes.~~

Authority: ~~T.C.A. §§57-1-209 and; 57-3-104(c)(4); 57-3-207.~~ **Administrative History:** Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-07-.03 — SALES OF WINE BY WINERIES AND FARM WINE PRODUCERS.

(Rule 0100-07-.02, continued)

- (1) ~~(1) — Wineries licensed hereunder in this state may sell on their licensed premises at retail only wine produced or finished on their own premises but not, Farm wine producers licensed hereunder in this state may sell on their licensed premises at retail only wine produced from the grapes and/or fruits of their vineyard, orchard or fruit garden. Wine sold for consumption on the premises, unless offered as a sample, shall be subject to the tax provided in T.C.A. § 57-4-301(c); provided that wine sold at retail in sealed containers for consumption on the premises but not in the bonded areas and samples of wine sold for consumption on the premises shall not be subject to said tax pursuant to T.C.A. § 57-3-207(t)(2). Samples may be given or sold on the premises except that no such sample shall exceed two ounces per variety for one person on the same day.~~
- (2) ~~Wineries in this state may provide samples of their product on their licensed premises subject to the provisions of T.C.A. § 57-3-207 et seq. For the purposes of these rules, "premises" and farm wine producers in this state shall mean the bonded areas, as identified by the 2007 federal TTB requirements, the tasting rooms, the sales rooms, and all other rooms inside the structures that are accessed by the public from the bonded areas, tasting rooms or sales rooms. Bonded areas, tasting rooms or sales rooms may be located within multiple structures under one winery license. Premises of the winery in this state shall not include rooms inside the structures that are not accessed by the general public from the bonded areas, tasting rooms or sales rooms. Further, premises in this state shall not include porches and decks that are accessible from outside the structures or other outside grounds.~~ may sell no more than five (5) cases or sixty (60) liters of bottled wine to any single retail customer in one (1) day.
- (2) ~~No such licensee shall sell at retail at his premises in excess of what is allowed by statute. The right to sell such amounts is not transferable.~~
- (3) ~~(3) — Winery and farm wine producer licensees are subject to the restrictions contained in Alcoholic Beverage Commission Rules 0100-03-.02 (Advertising Of Wine In Newspapers, Magazines Or Similar Publications), 0100-03-.03 (Advertising Of Distilled Spirits And Wine By Direct Mail), 0100-03-.04 (Advertising Of Distilled Spirits And Wine On Radio And Television) and 0100-03-.20 (Responsibility And Penalties For Violations).~~
- (4) ~~(4) — Other than permitted retail sales or samplings on the licensed premises, and other than pursuant to a self-distribution permit, no winery licensee shall sell or otherwise convey any tax-paid wine to any person, firm or corporation in Tennessee except to a Tennessee licensed wholesaler or in conjunction with a non-profit organization authorized by the Commission to conduct a wine festival as provided at T.C.A. § 57-3-207. This provision shall not prohibit the transfer of wine in bulk from one Tennessee winery to another— nor the transfer of wine to farm wine producers.~~
- (5) ~~(5) — No licensee shall sell, furnish, give or cause to be sold, furnished or given, any wine to any person under the age of minority as defined by T.C.A. § 57-4-203(b).~~
- (6) ~~(6) — Licensees hereunder not shall not sell or give away wine between the hours of 12:00 midnight and 8:00 a.m.~~

(Rule 0100-07-.02, continued)

- (7) ~~(7)~~—Wineries and farm wine producers licensed under provisions of T.C.A. § 57-3-207 are permitted to advertise on billboards and outside signs with locations not restricted to those counties which have legalized the sale of alcoholic beverages under provisions of T.C.A. § 57-3-106. Said billboards and outside signs are subject to the following restrictions:
 - (a) ~~(a)~~—Information appearing on billboards and outside signs shall be limited to the name of the winery, directions to the winery premises, and products and services offered as authorized by T.C.A. § 57-3-207.
 - (b) ~~(b)~~—No such billboard or outside sign shall contain statements prohibited by 0100-03-.02 (4).
 - (c) ~~(c)~~—Local Control. Billboards and outside signs approved herein are subject to reasonable rules and regulations duly adopted by proper governing bodies of the county and city wherein located.
 - (d) ~~(d)~~—Prior Approval. Billboards and outside signs conforming with to the foregoing provisions need not have prior approval of the Commission and prior Commission approval does not sanction any violation of the Tennessee Code, TABC Rules or valid county or city ordinance.
- ~~(8)~~—Wineries may provide samples of their product on their licensed premises subject to the provisions of T.C.A. § 57-3-207 et seq. For the purposes of these rules, "premises" shall mean the bonded area, as identified by the 2007 federal TTB requirements, the tasting room, the sales room, and all other rooms inside the structure that are accessed by the public from the bonded area, tasting room or sales room. Premises of the winery shall not include rooms inside the structure that are not accessed by the general public from the bonded area, tasting room or sales room. Further, premises shall not include porches and decks that are accessible from outside the structure.

Authority: T.C.A. §§57-1-209 and 57-3-207. Administrative History: Original rule files October 31, 1983; effective November 30, 1983. Amendment filed February 6, 1987; effective March 23, 1987. Amendment repealing and replacing the rule was filed on March 10, 2010; effective June 8, 2010.

0100-07-.04—*Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-207. Administrative History:*

0100-07-.04 SATELLITE FACILITIES

- (1) A winery or a farm wine producer licensee may have licensed not more than two (2) satellite facility locations. A winery may sell wine manufactured at the winery at its licensed satellite locations. Farm wine producers may sell wine produced from the grapes and/or fruits of their vineyard, orchard or fruit garden at its licensed satellite locations. Samples may be given or sold on the licensed premises at the licensed satellite facility except that no such sample shall exceed two ounces per variety for one person on the same day. Wine and wine samples sold for consumption on the licensed satellite premises shall be subject to the tax provided in T.C.A. § 57-4-301(c).
- (2) Satellite facilities are required to obtain permits from the Commission. Satellite facilities may only be located in jurisdictions where it is lawful to manufacture intoxicating liquors.

(Rule 0100-07-.02, continued)

- (3) Wine sold at satellite facilities must be obtained from a wholesaler. Wholesalers may allow wineries and farm wine producers to deliver the wine to the satellite locations. Wholesalers permitting direct shipment shall include the amounts delivered in its inventory, report depletions for purposes to tax collection, and be responsible for the payment of taxes for depletions. Wineries and farm wine producers electing to exercising this delivery method to their respective satellite facilities locations shall advise the Commission of their election to do so and shall advise and receive confirmation from their wholesaler of each delivery, the quantity of delivery and such other information required by the wholesalers for the filing of inventory, reports, taxes etc. with the Tennessee Department of Revenue.
- (4) Satellite facilities may sell items authorized to be sold at wineries.
- (5) Up to three wineries, each with a total annual wine production of fifty thousand gallons or less, farm wineries, or any combination thereof may combine businesses for the operation of a single satellite facility, provided that such satellite facility shall count against the limit specified in paragraph (1) for each winery or farm winery participating in such satellite facility. Any violation of any rule or statute by a satellite facility shall be deemed to be a violation by any winery or farm winery that participates in the satellite facility.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4);57-3-207. **Administrative History:**

0100-07-.05 RESTAURANTS.

- (1) A winery licensee or a farm wine licensee may also qualify for and, if qualified, be licensed as a restaurant or limited service restaurant ("restaurant"), if owned by the same person or entity holding the winery or farm wine producer license, and may locate the restaurant either contiguous or non-contiguous to the premises of the winery or farm winery. Such restaurants may serve wine manufactured on the premises of the winery or from the grapes and/or fruits of their vineyard, orchard or fruit garden of the farm wine producer for consumption either on or off the premises of such restaurants. The premises of such a restaurant must be separate and distinct from the premises of the winery or farm winery with an appropriate physical separation between said separate and distinct premises.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4); 57-3-207. **Administrative History:**

0100-07-.06 SELF DISTRIBUTION

- (1) Wineries that produce 50,000 gallons or less and do not have a contract with a wholesaler for distribution rights of the winery's wines in a county that is located in whole or in part within 100 miles of the winery may obtain a self-distribution license from the Commission. A winery that holds a self-distribution license shall immediately surrender the license if its output during a calendar year exceeds 50,000 gallons or if it contracts with a wholesaler for distribution.
- (2) A winery with a self-distribution permit may distribute up to 3000 cases of wine produced at the winery per calendar year to entities licensed pursuant to Title 57, Chapter 4, Part 1, Tennessee Code Annotated, and located within 100 miles of the licensed winery's manufacturing premises. The winery is responsible for all taxes and records which are imposed upon a wholesaler pursuant to T.C.A. §57-3-203 for wine sold pursuant to a self-distribution permit.

Authority: T.C.A. §§57-1-209; 57-3-104(c)(4);57-3-207. **Administrative History:**

0100-07-.07 TRANSPORTATION OF WINE PRODUCED BY LICENSED WINERIES AND BY FARM WINE PRODUCERS.

(Rule 0100-07-.02, continued)

(1) ~~(1) Finished wine produced~~ Wine manufactured by a licensed winery or wine produced from the grapes and/or fruits of a farm wine producers' vineyard, orchard or fruit garden may be transported from the winery or farm wine producer in any of the following ways:

~~(a) Pursuant to a sale to a consumer as set out in rule 0100-04-.03,~~

~~(b) By common carrier,~~

~~(c) By the licensed winery or farm wine producer after compliance with T.C.A. §57-03-403, or~~

~~(d) By a licensed wholesaler,~~

(e) By a winery pursuant to a self-distribution permit.

Authority: T.C.A. §§57-1-209 and; 57-3-104(c)(4); 57-3-207. **Administrative History:**—Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.

0100-07-.05—08 SALE OF OTHER WINE RELATED ITEMS.

(1) In addition to those items authorized by T.C.A. § 57-3-207(h)(1), Tennessee licensed wineries, farm wineries, and licensed satellite facilities operated by a Tennessee licensed winery or farm winery, are authorized to sell the following wine related items:

(a) Cork removers, decanters and funnels used in decanting;

~~(b) Wine glasses;~~

~~(c) Ice buckets;~~

~~(d) Pouring aids;~~

~~(e) Coasters, bottle stoppers;~~

~~(f) Promotional souvenir items imprinted with the winery's name (e.g. t-shirts);~~

~~(g) Wine literature;~~

~~(h) Gift-related items—including, but not limited to, cookbooks using wine; dishes/serving items with grape or wine theme, cruets for oil and vinegar, dipping bowls, bread bowls/trays, fruit bowls/trays, cheese trays/serving knives, aprons/kitchen towels/hot pads/napkins with grape or wine theme, wine racks, wine bottle carriers/bags, foil or fabric decorative wine bottle "sacks".~~

(Rule 0100-07-.02, continued)

- (i) ~~For consumption on the premises, food, including prepared food and/or unprepared snack~~ food that compliments the serving, sampling, or consumption of wine.

Authority: ~~T.C.A. §§57-1-209 and 57-3-104(c)(4); 57-3-207. Administrative History: Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.~~

0100-07-.06—09 STATUTES APPLICABLE TO WINERY LICENSEES.

- (1) ~~(1)~~—In addition to the regulations contained herein, licensed wineries are governed by the terms of much of T.C.A., Title 57 Chapter 3. In order to clarify which sections within Chapter 3 govern the conduct and licensing of such wineries, the Alcoholic Beverage Commission hereby declares that licensed wineries are subject to the terms of the following sections and subsections of Title 57, Chapter 3, T.C.A.:
- (a) ~~(a)~~—§§ 57-3-101, 57-3-104, 57-3-105;
- (b) ~~(b)~~—§§ 57-3-201; 57-3-202 (e); 57-3-207; 57-3-210 (a), (d), (e), ~~(j)~~; 57-3-211; 57-3-212; ~~57-3-213~~ (a), (b), (c); 57-3-214; 57-3-215; 57-3-221; and
- (c) ~~(c)~~—~~§§ 57-3-405(b) and~~ § 57-3-409.
- (2) Refusal of Cooperation – Any licensee, ~~his~~ agent or employee who refuses to open or disclose ~~his~~the records to, or furnish information to, or who furnishes false and/or misleading information to an Agent of the Tennessee Alcoholic Beverage Commission upon any matter relating to or arising out of the conduct of the licensed premises shall subject the license to revocation or suspension.
- (3) Licensee Responsible for Law and Order on Licensed Premises – Each licensee shall maintain ~~his~~ establishment in a decent, orderly and respectable manner in full compliance with all laws of Tennessee, Commission rules and regulations, and federal statutes.
- (4) Display of License – Any person, partnership, corporation, or other legal entity holding a winery license issued under Chapter 3 of Title 57, shall prominently display and post, and keep displayed and posted, in the most conspicuous place in the licensed premises, the license so issued.

Authority: ~~T.C.A. §§57-1-209 and 57-3-104(c)(4); 57-3-207. Administrative History:~~

~~Original rule filed October 31, 1983; effective November 30, 1983. Amendment repealing and replacing the rule was filed March 10, 2010; effective June 8, 2010.~~

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Mary McDaniel	✓				<i>Mary McDaniel</i>
John Jones	✓				<i>John Jones</i>
Bryan Kaegi	✓				<i>Bryan Kaegi</i>

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Alcoholic Beverage Commission (board/commission/ other authority) on 11/17/2015 (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: 03/02/2015

Rulemaking Hearing(s) Conducted on: (add more dates), 04/20/2015

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 PUBLICATIONS

Date: 11-17-15

Signature: *E. Keith Bell*

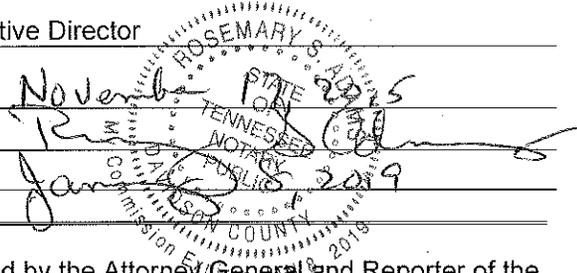
Name of Officer: E. Keith Bell

Title of Officer: TABC Executive Director

Subscribed and sworn to before me on: November 17, 2015

Notary Public Signature: *[Signature]*

My commission expires on: January 18, 2019



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

Herbert H. Slatery III

Herbert H. Slatery III
 Attorney General and Reporter

Dec. 1, 2015
 Date

Department of State Use Only

Filed with the Department of State on: 12/18/15

Effective on: 3/17/16

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Transportation, Traffic Operations Division

SUBJECT: Constructing Driveway Entrances on State Highway Rights-of-Way

STATUTORY AUTHORITY: Tenn. Code Ann., Section 54-5-301(a)

EFFECTIVE DATES: March 27, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: The rulemaking hearing rule replaces the current rules concerning constructing driveway entrances on state highway rights-of-way with the Manual for Constructing Driveway Entrances on State Highways, 2015 edition. According to the Department, the notable revisions and additions include the following:

NOTABLE REVISIONS:

- Sight Distance. Section 5.2 (old 1680-2-1-.03, Sight Distance). The requirements for this section have been altered to match current Department design standards.
- Number of Connections. Section 4.2 (old 1680-2-1-.04, Number & Arrangement of Driveways). The frontage distance for more than one driveway has been increased from 50 feet to 200 feet.
- Drainage, Section 6 (old 1680-2-1-.09, Drainage). Adds a new requirement for the design of a drainage system. The construction plans must show erosion and sediment control devices as needed according to Department design standards.
- Signs and Pavement Markings, Section 5.5 (old 1680-2-1-.10, Signing). Signs and markings must now comply with the Manual on Uniform Traffic Control Devices (MUTCD).
- Control Dimensions, Section 5.1 (old 1680-2-1-.11, Control Dimensions). Requirements have been updated to match current Department design standards. Many of the minimums have been increased and some

exceptions for certain maximums have been allotted.

- Driveway Construction and Grading Standards. Section 5.3 (old 1680-2-1-.12, Driveway Profile). This section has been updated to match Department design standards to prevent drag of longer vehicles or vehicles with trailers.
- Example Drawings. Appendix A (old 1680-2-1-.13, Sketches and Examples). Drawings in this section have been updated to reflect typical scenarios that may be encountered.
- TDOT Region and District Offices (old 1680-2-1-.15, Application for Permit). Contact information has been removed from the manual and will be added to the Department website that can be more easily updated as needed.
- Requirements for Application, Section 2.6 (old 1680-2-1 -.15, Application for Permit). The application requirements have been relocated to the beginning of the manual and have been updated with more detailed explanations of requirements.
- Bond Requirements, Section 2.5 (old 1680-2-1 -.16, Bond Requirements). The amount of the required bond has been increased to reflect current costs.
- Sample Permit (old 1680-2-1-. 18, Sample Permit). This section has been removed from the rules. Sample forms will be included on the Department website.

NOTABLE ADDITIONS:

- Highway Entrance Permits. Sections 2.1, 2.2, and 2.3. Explains in greater detail when and for whom a driveway permit is needed and whom the applicant must contact.
- Liability Insurance. Section 2.4. The amount of insurance required has been increased to match current statutory limits applicable to the Department.
- Types of Highway Access. Section 4.1. Describes the various types of highway access (e.g. single-family driveways, commercial driveways, frontage roads, etc.).
- Median Openings and Spacing, Section 5.6. Helps applicants design the location of their

driveway to minimize the need for additional median openings on State routes.

- **Traffic Impact Studies, Section 5.7.** Describes circumstances under which the Department may require the driveway permit applicant to provide a traffic impact study and what must be included in the study.
- **Auxiliary Lanes, Section 5.8.** Explains when auxiliary lanes are needed and their design requirements.
- **Engineering Exceptions, Section 7.** Details the process for applicants to request an exception when the standard requirements for a driveway permit cannot be met.
- **Maintenance, Section 8.** Explain which parties are responsible for the various maintenance activities associated with the driveway.

Public Hearing Comments

Of the few in attendance at the public hearing, the response was positive, supporting the idea of updated rules and creation of the Manual for Constructing Driveway Entrances on State Highways. Below is a list of questions posed at the public hearing.

Question: May written comments be emailed?

Affirmative. However, no written comments of any format were received by the Department.

Question: Will the Department's new driveway entrance website be visible before June 30, 2015?

The website is currently under construction.

Question: Will the driveway manual be in effect by the end of the year?

Dependent upon remainder of rulemaking process.

Question: Manual Section 2.1 General states that no person may construct a driveway or related encroachment. Is there a penalty for so doing?

Affirmative. Class B misdemeanor, \$500.00 fine per T.C.A. § 54-5-301; encroachments subject to removal per T.C.A. § 54-5-136.

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 affects small businesses.

Rule 1680-10-01-.01: The new rule states that the purpose of Chapter 1680-10-01, Constructing Driveway Entrances on State Highway Rights-of-Way, is to establish an application process for requesting driveway permits, standards and guidelines for granting driveway permits, and provisions for requesting a variance from the standards. It further expresses the Department's intent in the permitting process is to provide reasonable access to property owners while protecting the safe and efficient operation of the state highway system. As such, the rule has no direct impact on small businesses but reflects the Department's intent to implement a balanced approach.

Rule 1680-10-01-.02: The new rule restates the statutory mandate in T.C.A. § 54-5-302 that no driveway entrance shall be constructed on any state highway without first having obtained a permit in accordance with the Department of Transportation's regulations. As such, the rule has no direct impact on small businesses and again reflects the Department's intent to implement a balanced approach between the private right of access and the public's interest in the operation of a safe and efficient state highway system.

Rule 1680-10-01-.03: The new rule adopts the Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways, 2015 Edition, set forth in Rule 1680-10-01-.04, Appendix, as the regulations governing the permitting of driveways on state highways. This is similar to TDOT Rule 1680-03-01-.02, whereby the Department has adopted the Federal Highway Administration, Manual on Uniform Traffic Control Devices, to govern the design and location of all signs, signals, markings and postings of traffic regulations on all streets and highways in the State of Tennessee. The Driveway Manual is discussed below.

Rule 1680-10-01-.04: The new rule incorporates the text of the Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways, 2015 Edition ("Driveway Manual"). The Driveway Manual updates and replaces the content of the Department's existing Chapter 1680-02-01, Constructing Driveways on State Highway Right of Way, which was promulgated in 1974. The purpose of the new Driveway Manual is to update the driveway regulations – for example, to make them consistent with the Department's current design standards – and put them in a more accessible and easier to use format. (See summary of changes below.) New language has been added regarding the sharing of driveway maintenance responsibilities to formalize how most driveways are currently maintained. New language has also been added to aid land developers in coordinating with state and local permitting authorities to improve and expedite the permitting process and aid developers in making more informed property investment decisions. While some of the new standards and requirements are more restrictive than the existing rules, adjoining property owners and the public generally will benefit from the improved safety and efficiency of the highway system. Also, the new manual adds a process for requesting variances from the standards in appropriate circumstances.

In accordance with T.C.A. § 4-5-403, the following information is provided:

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

The proposed Driveway Manual will not impact any one type of business more than any other, and the number of businesses, small or otherwise, that may potentially be impacted cannot be determined. The updated design standards will apply to future applicants for new driveway entrance permits on state highways but will not be applied retroactively to existing driveways unless the driveway is to be modified or replaced.

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

The proposed Driveway Manual does not impose any reporting or recordkeeping requirements on any private businesses. The driveway permit records will be maintained by TDOT. Businesses applying for a driveway permit will incur some administrative costs, e.g., applicants will be required to provide a

performance bond and liability insurance during construction so as to assure that the driveway is constructed according to the approved plans and that the applicant is responsible for any injuries to third parties. In some cases, particularly with larger developments, the business or developer may be required to submit a site plan, traffic control plan, and/or a traffic impact study with the driveway permit application. The purpose of these requirements is to control storm water drainage and to protect the public interest in the safe and efficient flow of traffic.

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

As noted in the response to item (2), some businesses may incur additional administrative costs, particularly with larger developments. The businesses and the motoring public generally will benefit from better control of storm drainage onto state highway right-of-way and from improved safety and efficiency of traffic flow on state highways. In general, the proposed new Driveway Manual will implement current design standards and national best practices, and it will bring more clarity and consistency in the enforcement of these standards.

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

Any additional administrative costs will primarily fall on larger developments that have the potential for greater adverse effects on storm drainage and traffic flow. New developments are already required to prepare a site plan in order to obtain a local building permit, and any additional requirement such as a traffic impact study will be imposed as needed on the entity which will benefit from the new development. This will assist the Department in managing the potentially adverse impacts on traffic that may be created by the development.

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

The intent of the proposed new Driveway Manual is to promote better decisions by developers in how they access state highways in order to benefit both the traveling public and customers accessing businesses adjacent to the highway. The National Cooperative Highway Research Program (NCHRP) Synthesis 304 report on Driveway Regulation Practices, published by the Transportation Research Board in 2002, is the most current report available that compares driveway permitting differences between states. The majority of states surveyed reported improved safety, roadway level of service, improved driveway design, and better site design.

The Department's proposed regulations are generally more permissive than driveway regulations in other states, as demonstrated by the following comparisons with current regulations in other southeastern states:

Corner Clearance

TN (Current): 25' to 30'
TN (Proposed): 50' to 200'
SC: 75' to 400'
GA: 125' to 550'

Driveway Maintenance

TN (Current): Not specified
TN (Proposed): Property owner responsible for maintaining driveway entrance surface material (paved or gravel), shoulder, and slopes from the highway edge of pavement to the right-of-way line. TDOT will maintain drainage pipe.
FL: Property owner responsible for maintaining entrance up to back of sidewalk or 5 feet from edge of pavement.
GA: Property owner to provide routine maintenance of the pipe and driveway up to the roadway edge of pavement.
NC: Property owner responsible for maintaining entrance up to back of curb or 6 feet from edge of pavement. Property owner must replace damaged drainage pipe. Driveways deemed a danger to the public will be barricaded until repairs are made.

Median Openings

TN (Current): Not specified

TN (Proposed): 880' to 1760' (Current TDOT Road Design Policy)

SC: 500' to 1000'

GA: 1000' to 2640'

NC: 1200' to 2000'

(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 proposed rules contain a provision allowing for engineering exceptions where the general driveway standards cannot be met.

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)

Rule 1680-10-01-.01: The new rule states that the purpose of Chapter 1680-10-01, Constructing Driveway Entrances on State Highway Rights-of-Way, is to establish an application process for requesting driveway permits, standards and guidelines for granting driveway permits, and provisions for requesting a variance from the standards. It further expresses the Department's intent to work with local governments to provide reasonable access to the state highway system. As such, the rule has no direct impact on local governments but reflects the Department's intent to implement a balanced approach.

Rule 1680-10-01-.02: The new rule provides that the Department's regulation of driveway entrances on state highways is in addition to any county or municipal land use regulations that may also regulate the construction of driveways within their jurisdiction; therefore, the rule has no direct impact on local governments.

Rule 1680-10-01-.03: The new rule adopts the Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways, 2015 Edition, as set forth in Rule 1680-10-01-.04, Appendix, as the regulations governing the permitting of driveways on state highways. This is similar to TDOT Rule 1680-03-01-.02, whereby the Department has adopted the Federal Highway Administration, Manual on Uniform Traffic Control Devices, to govern the design and location of all signs, signals, markings and postings of traffic regulations on all streets and highways in the State of Tennessee. The impact of the proposed new Driveway Manual is described below.

Rule 1680-10-01-.04: The new rule incorporates the text of the Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways, 2015 Edition. The Driveway Manual updates and replaces the content of the Department's existing Chapter 1680-02-01, Constructing Driveways on State Highway Right of Way, which was promulgated in 1974. The purpose of the new Driveway Manual is to update the driveway regulations and put them in a more accessible and easier to use format (see summary of changes below). New language has been added to aid land developers in coordinating with state and local permitting authorities to improve and expedite the permitting process. As such, any impact on local governments should be positive.

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Sequence
 Number: 12-22-15
 Rule ID(s): 6092 & 6093
 File Date: 12/28/15
 Effective Date: 3/27/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Tennessee Department of Transportation
Division:	Traffic Operations
Contact Person:	John H. Reinbold, General Counsel
Address:	505 Deaderick Street, Suite 300 Nashville, TN
Zip:	37243
Phone:	615-741-2941
Email:	John.Reinbold@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
1680-02-01	Constructing Driveway Entrances on State Highway Rights-of-Way
Rule Number	Rule Title
1680-02-01-.01	Definition of Terms
1680-02-01-.02	Right-of-Way Encroachment
1680-02-01-.03	Sight Distance
1680-02-01-.04	Number and Arrangement of Driveways
1680-02-01-.05	Driveway Width and Edge Radius
1680-02-01-.06	Driveway Alignment and Profile
1680-02-01-.07	Driveway Surfacing
1680-02-01-.08	Curbs and Guide Posts
1680-02-01-.09	Drainage
1680-02-01-.10	Signing
1680-02-01-.11	Control Dimensions
1680-02-01-.12	Driveway Profile
1680-02-01-.13	Sketches and Examples
1680-02-01-.14	Plates

1680-02-01-.15	Application for Permit
1680-02-01-.16	Bond Requirements
1680-02-01-.17	Attachment "A" and "B"
1680-02-01-.18	Sample Permit

Rule 1680-02-01-.01 is repealed in its entirety.

Rule 1680-02-01-.02 is repealed in its entirety.

Rule 1680-02-01-.03 is repealed in its entirety.

Rule 1680-02-01-.04 is repealed in its entirety.

Rule 1680-02-01-.05 is repealed in its entirety.

Rule 1680-02-01-.06 is repealed in its entirety.

Rule 1680-02-01-.07 is repealed in its entirety.

Rule 1680-02-01-.08 is repealed in its entirety.

Rule 1680-02-01-.09 is repealed in its entirety.

Rule 1680-02-01-.10 is repealed in its entirety.

Rule 1680-02-01-.11 is repealed in its entirety.

Rule 1680-02-01-.12 is repealed in its entirety.

Rule 1680-02-01-.13 is repealed in its entirety.

Rule 1680-02-01-.14 is repealed in its entirety.

Rule 1680-02-01-.15 is repealed in its entirety.

Rule 1680-02-01-.16 is repealed in its entirety.

Rule 1680-02-01-.17 is repealed in its entirety.

Rule 1680-02-01-.18 is repealed in its entirety.

New Rule(s)

Chapter Number	Chapter Title
1680-10-01	Constructing Driveway Entrances on State Highway Rights-of-Way
Rule Number	Rule Title
1680-10-01-.01	Purpose
1680-10-01-.02	Applicability
1680-10-01-.03	Adoption of Manual for Constructing Driveway Entrances on State Highways
1680-10-01-.04	Appendix – Manual for Constructing Driveway Entrances on State Highways, 2015 Edition

1680-10-01-.01 Purpose.

- (1) Section 54-5-301 of the Tennessee Code authorizes the Commissioner of the Tennessee Department of Transportation to adopt reasonable and proper rules governing the construction of driveway entrances into highways on the State Highway System in order to maintain proper drainage, preserve the roadway from damage, and prevent interference with or the creation of hazards to public travel.
- (2) The primary function of a state highway is to provide system continuity and efficiency of state highway system operation and maintenance activities. The Department of Transportation recognizes that property owners have the right of reasonable access to their property, and the Department will work with property owners and local government authorities to provide reasonable access to the state highway system that is safe and enhances the movement of traffic through a permitting process that assesses the number, location, width, and design of driveways.
- (3) These rules establish procedures to apply for a driveway permit on a state highway, standards or guidelines for granting a driveway permit, and provisions for requesting a variance from the standards established in these rules.

Authority: T.C.A. § 54-5-301.

1680-10-01-.02 Applicability.

- (1) These rules shall govern the construction of all driveway entrances within the rights-of-way of highways designated as part of the state highway system.
- (2) No driveway entrance shall be constructed on any state highway right-of-way without a permit issued by the Department of Transportation. These rules provide a description of information to be contained in the driveway permit application, the standards against which the application shall be measured, and the administrative remedies offered by the Department to review the balance of private property rights of reasonable access versus the public need to preserve the smooth flow of traffic on the State Highway System.
- (3) The Department may issue driveway permits only when the application is found by the Department to be in compliance with these rules. The Department is authorized to impose terms, conditions, and limitations as necessary and convenient to meet the requirements of these rules.
- (4) The standards, procedures, and requirements of these rules are in addition to any county or municipal land use regulations that may also govern the construction of driveways within their respective jurisdictions.

Authority: T.C.A. § 54-5-301 and T.C.A. § 54-5-302.

1680-10-01-.03 Adoption of Manual for Constructing Driveway Entrances on State Highways.

- (1) The Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways, 2015 Edition, set forth in Rule 1680-10-01, Appendix, is hereby adopted in its

entirety and incorporated herein by reference.

- (2) It is the intent of the Department to amend these rules as necessary to adopt future revisions of the Manual for Constructing Driveway Entrances on State Highways as may hereafter be approved.

Authority: T.C.A. § 54-5-301.

1680-10-01-.04 Appendix – Manual for Constructing Driveway Entrances on State Highways.

[See attached pdf. copy.]

Authority: T.C.A. § 54-5-301.



Manual for Constructing
Driveway Entrances
on State Highways

2015 Edition

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1 – Introduction

1.1 Purpose

The purpose of the driveway permit process is to manage access on the State Highway System. Access regulations are necessary in order to preserve the functional integrity of the State Highway System and to promote the safe and efficient movement of people and goods while providing reasonable access to adjoining property owners. Reasonable access means that a property owner will have access to the public highway system, but it does not mean that potential patrons are guaranteed the most direct or convenient access from a specific roadway to the owner's property. This manual is intended to define the process for constructing a legal driveway or other work within the State Highway rights-of-way.

1.2 History

In 1974, the Tennessee Department of Highways, now known as the Tennessee Department of Transportation, adopted rules and regulations governing the construction of driveways on state highway right-of-way. Some of these rules were amended in 1978, but there have been no revisions since then. This new manual represents a comprehensive overhaul of the driveway regulations. A summary of changes can be found on the TDOT Traffic Engineering Office website's Highway Entrance Permit page.

1.3 Need

Every access point constructed on the state highway system increases the crash risk. The cumulative impact of closely spaced access points over time is one of the largest contributors to high crash rates and congestion on state highways. The majority of states in the nation have updated their driveway access standards in the last 20 years to curtail the accelerated degradation to highway efficiency and safety. It is the Department's intent to adopt national best practices that better preserve the safe and efficient movement of people and goods while also helping property owners make better decisions regarding access needs. Outdated access policies not only fail to protect the interests of highway users but also fail to enhance the economic opportunities a highly efficient roadway network offers businesses and customers.

1.4 Authority

This manual is authorized by the following sections of the Tennessee Code Annotated:

- (a) Section 4-3-2303(2), Powers and duties of commissioner, which authorizes the Commissioner to promulgate regulations governing the administration and operations of the Department.
- (b) Section 54-5-301(a), Regulations governing construction of entrances – Penalty for illegal entrances, which authorizes the Commissioner to make reasonable and proper rules governing the construction of driveway entrances on the State Highway System.
- (c) Section 54-5-302, Agreement prior to construction mandatory, which provides that no person

may construct any entrance onto a state highway unless it is constructed in accordance with the rules and regulations adopted by the Commissioner.

1.5 Severability

If any provision of this manual of standards and guidelines is proven or held to be invalid or unconstitutional, such invalidity shall not affect the validity of these standards and guidelines as a whole, or any part thereof, other than the part determined to be invalid.

1.6 Definitions

AASHTO – The American Association of State Highway and Transportation Officials.

Access Point – A location on a property frontage at which access to a state highway is allowed by the Department.

ADA or Americans with Disabilities Act of 1990 – Federal law prohibiting discrimination against persons with disabilities. Requires public entities and public accommodations to provide accessible accommodations for persons with disabilities.

Americans with Disabilities Act Accessibility Guidelines (ADAAG) – Scoping and technical specifications for new construction and alterations undertaken by entities covered by the ADA.

Algebraic Difference in Grade – The total change in grade between intersecting grades.

Apron – That portion of the driveway extending from the edge of the pavement of the through roadway to the back of sidewalk section, or the right-of-way line if no sidewalk exists.

Applicant – The owner of a property or the owner’s representative applying for a state highway entrance permit.

Auxiliary Lane – A lane along the roadway that is used for the purpose of acceleration, deceleration, or storage of vehicles for turning movements.

Buffer Area – The border area along the frontage of a property, between the traveled way and the right-of-way line, and within the frontage boundary lines.

Commercial Border Area – The border area along the frontage boundary line that extends outside the right-of-way line onto a tract of commercial property. This area is designed to prevent vehicles from parking or being serviced on state owned right-of-way. Typically, commercial border areas are grassy or mulched, and surrounded by a concrete curb.

Commercial Border Area Clearance – The distance, measured perpendicular to the right-of-way line, between the right-of-way line and the edge of the commercial border area. See Figure A.3 dimension “CB”.

Connection – Any driveway, street, turnout, or other means of providing for the movement of vehicles to or from the public roadway system.

Corner Clearance – At an intersecting street or highway, the distance measured along the edge of traveled way between the intersection of right-of-way lines and the tangent projection of the nearest edge of the driveway. See Figure A.3 dimension “C”.

Crossover – A paved or graded area of the highway median designed to allow vehicles to cross the median of a divided highway.

Department – The Tennessee Department of Transportation.

Distance Between Double Driveways – The distance measured parallel to the right-of-way line between the tangent edges of two adjacent driveways servicing the same frontage. In the case of driveways at an angle less than 90° to the traveled way, the minimum distance required between them shall be applied at the point where the two tangent edges are closest to the traveled way. See Figure A.3 dimension “D”.

Driveway – An improved area between a public road and private property used to provide ingress and egress of vehicular traffic from the public road to a definite area of private property.

Driveway Angle – The angle of 90° or less between the driveway centerline and the edge of the traveled way. See Figure A.2 dimension “Y”.

Driveway Width – The perpendicular distance between the parallel edges of a driveway. See Figure A.2 dimension “W”.

Drop/Lowered Curb – A curb with reduced vertical dimension to allow vehicular access in specific areas while containing the flow of storm water under common flow conditions.

Edge Clearance – The distance measured parallel to the edge of the traveled way, between the frontage boundary line and tangent projection of the nearest edge of driveway. In the case of driveways at an angle less than 90° to the traveled way, the edge clearance shall be measured between the frontage boundary line and the point where the tangent edge of the driveway is closest to the traveled way. See Figure A.2 dimension “E”.

Encroachment – The use of state highway right-of-way by anyone other than the Department’s personnel or authorized agents for any purpose other than that intended by the Department.

Field Entrance – An area between a public road and private property used to provide ingress and egress of farm equipment from the public road to a definite area of private property used for agricultural purposes.

Frontage – The length along the highway right-of-way line of a single property tract or roadside development area between the edges of the property. Corner property at a highway intersection has a separate frontage along each highway.

Frontage Boundary Line (F.B. Line) – A line, perpendicular to the highway centerline, at each end of the frontage, extending from the right-of-way line to the edge of the traveled way. See Figure A.4.

Functional Classification – The grouping of streets and highways into classes or systems according to the character of service they are intended to provide.

“May” – see “Shall,” “Should,” and “May.”

Median Offset – The distance measured parallel to the right-of-way line from the end of the median to the nearest edge of the closest driveway.

MUTCD – Manual On Uniform Traffic Control Devices.

Outparcel – A small tract of land containing a small commercial establishment which is situated in close proximity to a large, high-volume generating commercial building. Outparcels derive a substantial amount of their business from the traffic generated by the primary commercial establishment in the area. See Figure A.11.

Radius Type Driveway – A driveway constructed with a transition curb defining the edges of the driveway.

Radius of Curvature – Curvature of a circular arc measured as the length of the curvature vector. See Figure A.2 dimension “R”.

Ramp Type Driveway – A driveway constructed with a drop curb used to define the edge of the pavement of the adjacent roadway.

Right-Of-Way (R.O.W.) – Lands conveyed or dedicated to the public for use as a street, alley, walkway, or other public purpose related to the provision of transportation services. See Figure A.2.

Road, Roadway – *See Street.*

Rural – Area located outside the urban boundary limits as determined by the TDOT Planning Division. Link to boundary maps provided on TDOT Traffic Engineering Office website’s Highway Entrance Permit page.

“Shall,” “Should,” and “May”:

Shall – A mandatory condition. Where certain requirements in the design or application are described with the “shall” stipulation, it is mandatory when an installation is made that these requirements be met.

Should – An advisory condition. Where the word “should” is used, it is considered to be advisable usage, recommended but not mandatory.

May – A permissive condition. No requirement for design or application is intended.

Setback – The lateral distance between the right-of-way line and the roadside business building, gasoline pump curb base, display stand, or other object, the use of which will result in space for vehicles to stop or park between such facilities and the right-of-way line.

Sidewalk – An improved pathway or other area on public or private property where pedestrians may walk

or stand.

Sight Distance – The distance at which a driver can see or be seen by an approaching vehicle.

Street – Any public thoroughfare primarily used by motor vehicles and not classified as an alley.

Street-Type Entrance – A point of access constructed to meet AASHTO street intersection standards with design features that include curb returns, channelized lane usage, lane use markings, etc.

Traveled Way – The portion of the roadway for the movement of vehicles, exclusive of shoulders, berms, sidewalks, and parking lanes.

Urban – Area located inside the urban boundary limits as determined by the TDOT Planning Division. Link to boundary maps provided on TDOT Traffic Engineering Office website's Highway Entrance Permit page.

Traffic Control Devices – All signs, signals, markings and other devices placed on, over, or adjacent to a traveled way to regulate, warn, or guide traffic.

Traffic Impact Study (or Report) – A review and analysis of the access requirements for and traffic impacts created by a development, prepared by a licensed professional engineer, and meeting the standards set forth by the Institute of Transportation Engineers (ITE) and any requirements established by the Department.

2 – Highway Entrance Permits

2.1 General

No person may construct a driveway or related encroachment on state highway right-of-way, including the modification, revision, or change in use of any existing driveway facilities, without first obtaining a state highway entrance permit. Change in use includes increasing the number of trips. The property owner, whose property will be accessed by the driveway or street being built or modified, is responsible for obtaining a highway entrance permit and fulfilling all associated requirements. All entrance permit applications (except for residential drives or field entrances), along with any other required information shall be forwarded to the appropriate Tennessee Department of Transportation (TDOT) Region Traffic Engineering Office. See the TDOT Traffic Engineering Office website's Highway Entrance Permit page for a link to Region Traffic Engineering offices. **Please note: Any modification, revision, or new construction on state right-of-way, other than that of a "simple" driveway, may require the acquisition of additional TDOT permits prior to beginning work. Applicants should make sure to contact the appropriate Region Traffic Engineering Office to determine which permits will be required.**

2.2 Residential Driveways and Field Entrances

Owners wishing to construct a residential driveway or field entrance shall contact the local TDOT District Office (see TDOT Traffic Engineering Office website's Highway Entrance Permit page for a link to District Offices). All entrances onto state highways shall meet the conditions of this manual to be approved by the TDOT District Office representative.

2.3 Coordination with Local Authorities

The Department encourages cities, counties, or other local authorities to develop their own regulations governing the construction and design of driveways and intersections. If the ordinances or regulations of more than one jurisdiction apply to a proposed driveway or intersection, it is the responsibility of the applicant to contact each authority to ascertain all requirements and obtain approval from all jurisdictions. The more restrictive regulations shall apply, but the Department shall not issue a permit for a highway entrance that may meet local guidelines but violates the requirements of this manual. Also, the issuance of a permit by the Department does not eliminate the applicant's need to meet the requirements of local authorities.

The Department may opt to allow local agencies sole responsibility for issuing highway entrance permits. This will be done using a memorandum of understanding. The local agency will be required to either meet or exceed the conditions of this manual. Permittee should check with their area TDOT office to determine the appropriate agency authority. The current list of agencies that have sole responsibility can be found on the TDOT Traffic Engineering Office website's Highway Entrance Permit page.

The Department encourages developers to contact local authorities and the appropriate Region Traffic Office when considering the purchase of property where existing or future access to a state highway is of major concern. The Department at its discretion may provide a letter of written conceptual concurrence if provided development plans approved by the local jurisdiction prior to property purchase. The letter from the Department does not negate the land developer's responsibility to acquire a highway entrance permit prior to constructing a new entrance or modifying an existing entrance.

2.4 Liability Insurance

Either the property owner or the contractor performing the work shall carry general liability insurance with an insurance company authorized to do business in Tennessee and in a form acceptable to the Department. Proof of said insurance shall be furnished to the Department in the form of an insurance certificate indicating coverage which shall match the exposure of the Department to claims for negligence as set forth in Tennessee Code Annotated, Section 9-8-307 as it may be from time to time amended and construed. Said limits are currently three hundred thousand dollars (\$300,000) per person and one million dollars (\$1,000,000) for each occurrence. Certificate holder must be: State of Tennessee, Department of Transportation. Such insurance **shall remain in full force** and effect from the beginning of construction on the right-of-way until such construction has been completely approved, in writing, by the Department. Please specify permittee's name (property owner), and identify the location (state route and county) covered by this certificate of insurance. If this information is not provided, the permit will not be granted and the process may be delayed.

2.5 Bond Requirements

All applications, except for residential driveways and field entrances, for permits authorizing the construction or modification of entrances on state owned right-of-way shall be accompanied by a bond executed by or on behalf of the owner, guaranteeing the performance of the terms and conditions of the permit. Bond forms can be found on the TDOT Traffic Engineering Office website's Highway Entrance Permit page. The applicant may select one of the following procedures:

- A. Completely and accurately fill out the Cash Bond form, and post a cashier's or certified check. The amount of the cashier's or certified check shall be equal to one hundred ten percent (110%) of the estimated construction cost (as determined by the Department), or five thousand dollars (\$5000), whichever is greater.
- B. Completely and accurately fill out the Surety Bond form, and post a surety bond. The amount of the surety bond shall be equal to one hundred ten percent (110%) of the estimated construction cost (as determined by the Department), or five thousand dollars (\$5000), whichever is greater.

Regardless of the type of bond chosen, it shall remain in effect until construction on state right-of-way has been completed and approved by the Department. Upon completion of the authorized construction, the applicant shall notify the Region Traffic Engineering Office that issued the permit for construction. The Region Traffic Engineer, or another designated Department representative, shall inspect the site to ascertain that all construction has been satisfactorily completed and that all construction complies with the terms and conditions of the permit covering the work.

After the time period specified in the permit, the Department's representative shall make a final inspection of the site to ascertain that all construction has been maintained to design specifications. If the Department finds the construction satisfactory, the applicant shall be advised, in writing, that the construction has been accepted by the Department, and the cash bond shall be refunded, or the bonding agency shall be notified to release the bond, as applicable.

2.6 Requirements for Application

As early as possible in the application process, the owner or a designated representative should contact the Region Traffic Engineering Office nearest the proposed construction. This will allow the applicant to become familiar with the Department's requirements, and may inform the applicant as to any other permits that must be obtained prior to beginning construction.

Forms

The applicant shall fill out the highway entrance permit application in full. All required copies of the permit itself are to be signed in the box designated "Permittee" by the property owner or a legal representative of the corporation that owns the property. Any other applicable forms shall also be filled out and forwarded to the Region Traffic Engineering Office. The permit application and other forms may be obtained from the TDOT Traffic Engineering Office website's Highway Entrance Permit page or from the Region Traffic Engineering Office.

Expiration and Extensions

An entrance permit is valid for 1-year from the date of issuance. If construction cannot begin within this time period, an extension is available for an additional 6 months upon the written request of the applicant (made prior to the expiration of the permit). Once the permit expires or if additional extensions are needed, the renewal may require re-submittal of a permit application.

Site Plan

In many cases, the Department will require the applicant to submit a site plan showing proposed and existing conditions as well as how the drainage of storm water will be handled at the newly-developed site. When required, a site plan shall be stamped by a qualified professional engineer who has been licensed by the State of Tennessee. See the TDOT Traffic Engineering Office website's Highway Entrance Permit page for a checklist of items to be included in a site plan.

Traffic Control Plan

Due to the nature of the proposed construction, the roadway being accessed, peak hour volumes, and/or other characteristics of a particular site, the Department may require the applicant to submit a traffic control plan. If required, such a plan shall conform to the guidelines found in the state adopted Manual on Uniform Traffic Control Devices. Lane closures required for construction shall be coordinated with the Regional Traffic Engineer to be incorporated into the Department's construction reports.

Traffic Impact Study

Depending upon the type and nature of the proposed entrance, along with considerations of future development at a given site, the Department may require the applicant to submit a Traffic Impact Study. These studies shall be performed and stamped by a qualified professional engineer who is registered in

Tennessee. See Section 5.7 for more information on Traffic Impact Studies.

See TDOT Traffic Engineering Office website's Highway Entrance Permit page for TDOT Region Traffic Engineering Offices, District Offices and for various forms associated with the permit application process.

3 – Right-of-Way Encroachment

3.1 General

No part of state highway right-of-way shall be used for servicing vehicles, displays, or the conducting of private business. The buffer area is to be kept clear of buildings, fences, business signs, parking areas, service equipment, and appurtenances thereto. Parking may be permitted on the roadway, as at curbs on city streets, when permitted by police control. The buffer area may be graded and landscaped as approved by the Department.

3.2 Buffer Areas

During the development of private property and the construction of driveways thereto, it may be necessary to re-grade the buffer area by cutting or filling. Such work shall be done in a manner to ensure adequate sight distance for traffic operations, proper drainage, suitable slopes for maintenance operations, and good appearance. The buffer area outside the driveways should be treated to prevent use by vehicles. This may be accomplished by grading, the use of curbs, rails, guide posts, low shrubs, etc., in a manner that will not impair clear sight across the area.

3.3 Parking and Storage

Each roadside business establishment should provide adequate parking or storage space off the right-of-way to prevent the storage of vehicles on the driveway or the backing up of traffic onto the travel way. This is particularly needed for businesses where a number of vehicles will be leaving and entering at the same time.

Where there are one or more driveways to a corner establishment at a highway intersection, parking should be prohibited or severely restricted on each highway between the intersection and the nearest driveway. This will improve the overall safety of the intersection by eliminating potential sight obstructions to motorists.

4 – Access Points

4.1 Types of Highway Access

Single or Two-Family Driveway: Driveways servicing single-family homes or duplexes are considered to be residential. See Figure A.2.

Field Entrance: This type of access is allowed to service farmland or other similar property. Driveways for such property are subject to the same regulations as a residential driveway.

NOTE: Owners wishing to construct either a residential driveway or field access shall contact the local Tennessee Department of Transportation District Office (see the TDO's Traffic Engineering Office website's Highway Entrance Permit page for a link to the District Offices).

Multi-Family Driveway: Residential properties consisting of more than two apartments or units are considered multi-family properties. Driveways for such complexes are subject to the same regulations as a commercial driveway.

Commercial Driveway: Driveways providing access to private property used for commercial purposes, or to public property, will be classified as commercial. See Figure A.3-A.8.

Street-Type Entrance: When development of a specified tract of property will generate 250 or more trips per day, a street-type intersection shall be required, and a Traffic Impact Study may also be required, at the Department's discretion. This may include, but is not limited to: shopping centers, residential neighborhoods, industrial parks, or educational complexes. Also, when access is granted to new streets or roads, they shall be of the street-type design. Driveways for such complexes are subject to the same regulations as a commercial driveway. See Figure A.9.

Joint Access Driveways: The physical configuration of some properties makes it difficult to provide access adequate to serve certain types of development. Examples include uses that normally require two points of access to be developed on a lot with limited frontage, sites with access limitations caused by narrow frontage, frontage that does not span a median opening on a divided highway, or corner clearance requirements. In these and other cases, it may be desirable to develop driveways that serve two or more properties. All involved property owners must agree in writing to the construction of a joint access driveway for a permit to be issued.

Frontage Roads: Where there are several adjacent roadside establishments, each with relatively limited frontage, or where there is a probability of such development, consideration should be given to the provision of a frontage road for the several driveways so as to reduce the number of separate connections to the highway. Where border width permits, the several driveways should be connected directly to such a frontage road paralleling the highway with connections to the highway only at the extremities of the frontage road or at well-spaced intervals along it. See Figure A.10 for a sample drawing of a typical frontage road. All frontage roads shall be off of the right-of-way and shall be designed such that queuing at the primary access with the state route does not affect traffic flow.

Outparcels: Frequently, when a large piece of commercial property is being developed, a high-volume traffic generator, such as a large department store or movie theater, will be the primary business at that location. However, a portion of the property may be divided into smaller outparcels, which will then be developed by smaller businesses. Since these establishments derive a substantial portion of their business from the traffic generated by the primary business, access to these outparcels should come from within the shopping area itself, rather than each business having its own access point from a state highway. This will improve the overall safety of the area, reduce potential points of conflict, and move traffic off of the main thoroughfare and into the shopping area. Access to outparcels are often dictated by local planned unit development (PUD) requirements. No future access should be permitted by the Department unless revisions have been made and approved through the local PUD. For an example of outparcel access, see Figure A.11.

4.2 Number of Entrances

Generally, the number of entrances to a single property shall be kept to the minimum necessary to provide adequate and reasonable service without compromising safety. For single-family residential properties, only one driveway shall be allowed unless the frontage is 200 feet or greater, then a second driveway may be allowed. No more than two driveways for single-family residential properties will be allowed. For all other uses, please consult the following:

- Typically, only one entrance shall be permitted.
- For frontages of 200 feet to 400 feet, an additional entrance may be permitted based on need demonstrated in a Traffic Impact Study.
- For frontages in excess of 400 feet, more than two entrances may be permitted based on need demonstrated in a Traffic Impact Study. The additional entrances may be allowed at the rate of one entrance per every 200 feet of continuous frontage, over 400 feet.
- Where corner lots are involved, the regulations described above shall apply separately to each roadway.

Exceptions to the limitation number of entrances may be granted when the need for such exceptions is demonstrated in a Traffic Impact Study, which concludes that the adverse impacts of additional driveways will be outweighed by the improvement of circulation and safety.

5 – Access Design

5.1 Control Dimensions

Driveways shall be designed to adequately handle the anticipated volume and type of traffic generated. Design shall be governed by the largest vehicle expected to regularly use the entrance. See Figures A.2 through A.9 in Appendix A for example drawings illustrating the control dimensions listed below.

5.1.1 Edge Clearance (E):

All portions of a driveway, including radii, shall lie within the frontage boundary lines. At no time shall the edge clearance be less than the radius of curvature for the junction of the driveway and the edge of pavement. (see “Radius of Curvature” below)

Minimum Edge Clearances:

Rural:

Residential – 10 ft.

Commercial – 20 ft. (larger minimum edge clearance may be required if design vehicle is a single-unit truck or tractor trailer)

Urban:

Residential – 5 ft.

Commercial – 20 ft. (larger minimum edge clearance may be required if design vehicle is a single-unit truck or tractor trailer)

Note: when a single-unit truck or tractor trailer is used as the design vehicle, the minimum required edge clearance shall be equal to the required driveway radius (see “Radius of Curvature” below).

5.1.2 Driveway Angle (Y) (Rural and Urban):

Driveway angles shall be as follows:

Driveways for two-way operation

90° to the centerline of the roadway.

Driveways for one-way operation

1. Driveways used by vehicles turning from both directions on the highway shall be the same as for two-way operation: 90° to the centerline of the roadway.

2. Driveways used by vehicles traveling in one direction on the highway (right-in, right-out only): 60° to the centerline of roadway preferred; may be reduced to 45° (with the approval of the Department).

5.1.3 Radius of Curvature (R):

The radii of driveways and street entrances will vary, depending on the type of establishment and the type of vehicle using the entrance. Particular site characteristics, such as the speed of the adjacent roadway, should also be considered in determining entrance radii.

Rural Driveways:

Residential - 10 ft. minimum; 20 ft. maximum

Commercial - 20 ft. minimum (larger radius may be required if design vehicle is a single-unit truck or tractor trailer)

Urban Driveways:

Residential - 5 ft. minimum; 15 ft. maximum

Commercial - 20 ft. minimum (larger radius may be required if design vehicle is a single-unit truck or tractor trailer)

Street-Type Entrances:

For entrances servicing passenger cars almost exclusively -
25 ft. minimum, 30 ft. recommended

For entrances with a significant portion of single-unit trucks or WB-40 tractor trailers -
40 ft. minimum

For entrances servicing WB-50 tractor trailers or larger -
40 ft. minimum, 75 ft. maximum, 50 ft. recommended

5.1.4 Entrance Width (W) (Rural and Urban):

The entrance width shall be as listed in Table 5.1.

Table 5.1: Driveway Widths

Entrance Type	One-Way Driveways		Two-Way Driveways	
	Minimum	Maximum	Minimum	Maximum
Single Family or Duplex	N/A	N/A	14 ft.	20 or 24 ft.
Multi Family	12 ft.	20 ft.	24 ft.	40 ft.
Commercial or Industrial	12 ft.	24 ft.	24 ft.	40 ft.*

*Note: Where developments are expected to serve a substantial volume of heavy vehicles (6 or more tires), this dimension may be increased to 50 feet.

Street Entrance Width: Generally, street entrances shall be limited to 50 feet. The Department may elect to expand the entrance width if it is determined through a Traffic Impact Study that extra lanes are warranted. Regardless of entrance width, medians for street entrances may not be constructed within the right-of-way.

See Figure A.9.

5.1.5 Corner Clearance (C) (Rural and Urban):

The corner clearance distance shall be as listed in Table 5.2.

Table 5.2: Corner Clearance Requirements

Classification of Intersecting Street	Functional Classification of Road to be Accessed by Driveway		
	Arterial	Collector	Local
Arterial	200 ft.	150 ft.	100 ft.
Collector	150 ft.	100 ft.	50 ft.
Local	100 ft.	50 ft.	50 ft.

NOTE: The functional classification of the route shall be determined using the functional class maps published by TDOT's Planning Division. A link to the functional class maps can be found on the TDOT Traffic Engineering Office website's Highway Entrance Permit page.

5.1.6 Distance Between Double Driveways (D) (Rural and Urban):

Rural - 40 ft. minimum

Urban - 40 ft. minimum

5.1.7 Fuel Pump Clearance (F) (Rural and Urban):

Where applicable, fuel pumps shall be placed so that refueling vehicles will not be parked or serviced on state right-of-way. The pumps shall be placed the following distances from the R.O.W. line(s):

Pumps parallel to R.O.W. line - 15 ft. minimum

Pumps perpendicular to R.O.W. line - 25 ft. minimum; 50 ft. recommended

Pumps at any other angle to R.O.W. line - 25 ft. minimum; 50 ft. recommended

5.1.8 Commercial Border Area Clearance (CB) (Rural and Urban):

Commercial border area clearance shall be at least 3 feet. If border area clearance is less than 6 feet from R.O.W. line a 6" raised curb shall be required.

This clearance (and use of 6" curb) is designed to prevent vehicles from parking or being serviced within the R.O.W. line.

5.2 Sight Distance

Highway entrances should be located to provide adequate sight distance for all traffic movements allowed. Where sight distance requirements are not met, specific movements may be restricted. The developer of such a site may be required to perform additional grading work in order to ensure proper sight distance requirements are met. Sight distance requirements shall be in accordance with the Department's design standards, see Department's standard drawings RD01-SD series. See figures 5.1 and 5.2 below.

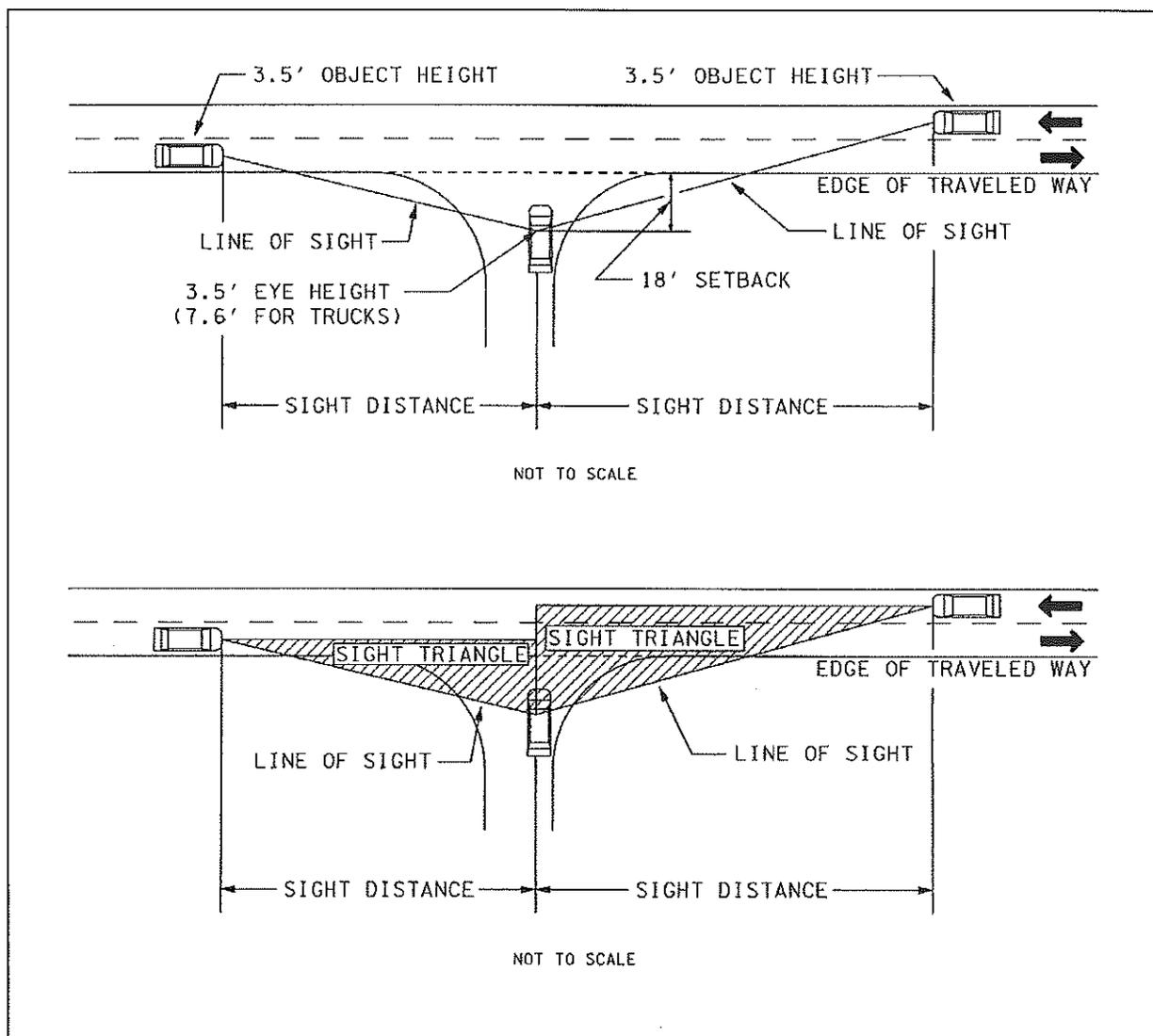


Figure 5.1: Sight Triangle

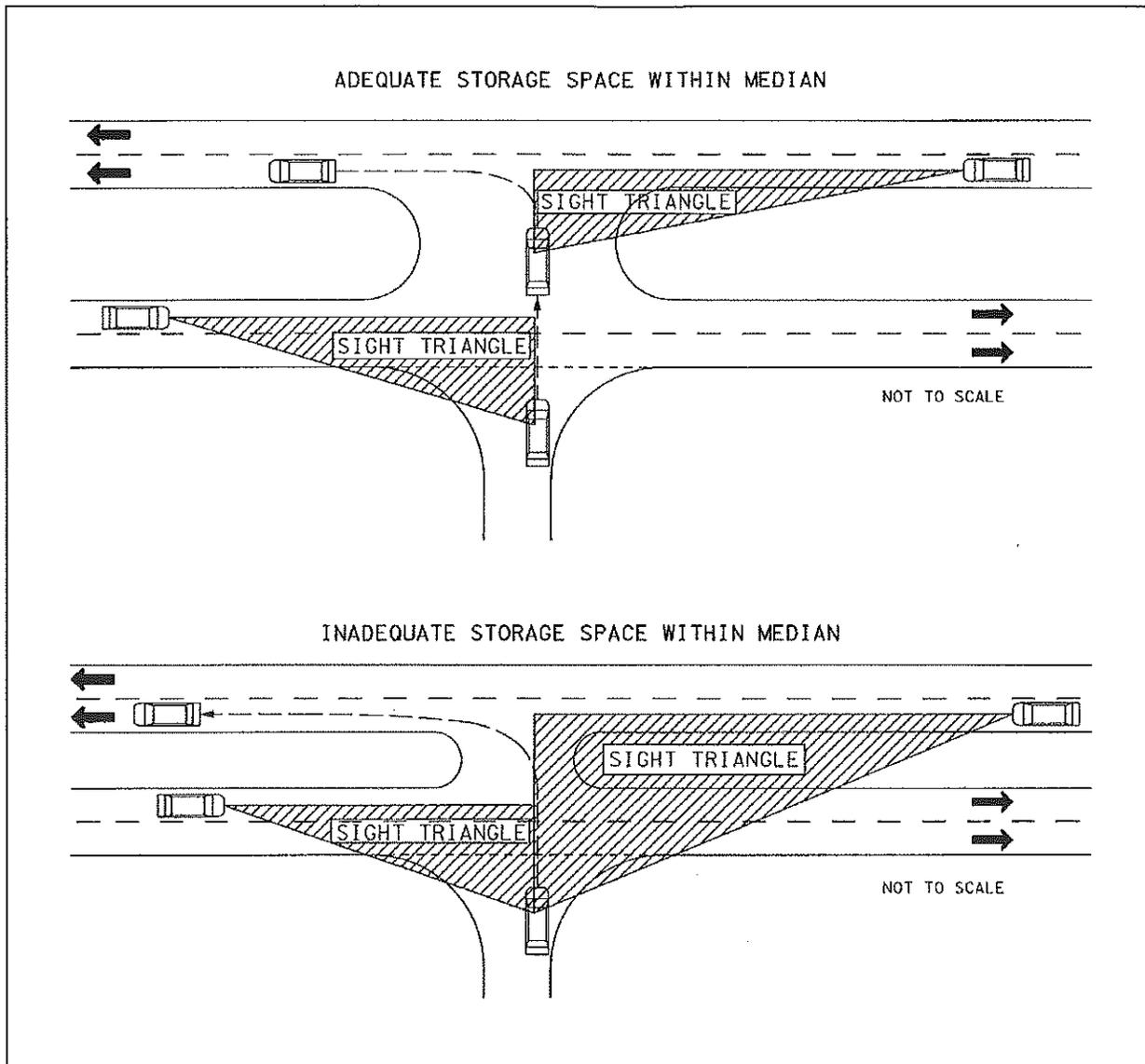


Figure 5.2: Sight Distance at Divided Highways

5.3 Driveway Construction and Grading Standards

All driveways connecting to state routes shall be constructed according to either local government or Department standards, whichever standards are the strictest. In the interest of safety, driveways shall be designed to minimize storm water flow from the driveway onto the public roadway. If there is a curb, the design should also minimize the diversion of storm water flowing against the curb into the driveway. Driveway side slopes shall be no steeper than 6:1. If there are culvert ends facing oncoming traffic, a side drain endwall with grates may be required. See the TDOT Traffic Engineering Office website's Highway Entrance Permit page for links to Department standard drawings.

5.3.1 Residential and field entrances on roads without curb & gutter:

For driveways classified as residential or field entrance, the portion of any driveway within the right-of-way should satisfy the following criteria:

- Driveway grade shall not exceed 15% (10% is recommended).
- From the edge of traveled way to the outer edge of the shoulder, the driveway grade shall match the existing shoulder grade.
- For Cut Sections - From the outer edge of the shoulder to the low point at the ditch line or over a culvert, the grade shall not exceed 8% (5% is recommended). Beyond the ditch line, the maximum grade allowed is 15% (10% is recommended).
- For Fill Sections – Beyond the outer edge of the shoulder, the grade shall not exceed 15% (10% is recommended).
- The maximum allowable difference in grade between intersecting grade lines is 10% in crests and 9% in sags
- The minimum separation distance between changes in grade is 10 feet.

5.3.2 All other entrance types on roads without curb & gutter:

For driveways serving all other uses, the portion of any driveway within the right-of-way shall satisfy the following criteria:

- Driveway grade shall not exceed 8% (5% is recommended).
- From the edge of traveled way to the outer edge of the shoulder, the driveway grade shall match the existing shoulder grade.
- For Cut Sections - From the outer edge of the shoulder the grade shall not exceed 8% (5% is recommended).
- For Fill Sections - Beyond the outer edge of the shoulder, the grade shall not exceed 8% (5% is recommended).
- The maximum allowable difference in grade between intersecting grade lines is 10% in crests and 9% in sags.
- The minimum separation distance between changes in grade is 30 feet.

5.3.3 Driveways on roads with curb & gutter:

Driveways should slope upward from the gutter line to meet the sidewalk (if applicable). Descending driveways are to be constructed in a manner which prevents water from leaving the roadway gutter. The maximum difference between the grades of the roadway cross slope and the driveway shall not exceed 10% in crests and 9% in sags. The driveway grade must not exceed 2% across a sidewalk. Beyond the outer edge of the sidewalk (or an equivalent point) the maximum allowable grade is 8% (5% recommended) for commercial applications, 15% (10% recommended) for residential applications.

Vertical Curves – All driveway vertical curves should be designed as flat as possible to prevent vehicles from dragging the pavement. This is especially important when developments are expected to serve a substantial

volume of oversized vehicles (5 or more vehicles per day with 3 or more axles). The maximum break in pavement grade, as well as all other appropriate factors, including vertical curve characteristics, should be checked by the designer to ensure adequate clearance for the long wheelbase of the oversized vehicles.

See Figure A.1 for an illustration of the regulations listed above.

5.4 Pavement Section

All driveways shall have a surface treatment adequate to permit reasonable use of the facility during all weather conditions. Gravel surfaces may be considered adequate for residential driveways unless drainage patterns and the grade of the driveway are likely to result in debris (including dirt and/or gravel) being transported into the roadway by storm water.

Commercial driveways shall be paved with concrete or bituminous material. The paving section shall be at least as deep as the pavement on the street or road to which access is being secured, and shall extend from the edge of the pavement of the existing roadway to either the back of the ditch line, the right-of-way line, or ten feet (10') from the outer edge of the shoulder or curb line, whichever is the greatest.

5.5 Signs and Pavement Markings

Signs and pavement markings shall be in accordance with the state adopted MUTCD. Markings shall be thermoplastic or as directed. Signs may be required for stop or yield conditions. Additional regulatory and/or warning signs may be required as directed. All signing and marking shall be maintained in accordance with the MUTCD.

5.6 Median Openings and Spacing

Medians provide safety along with improved traffic operations. In the interests of equity, openings shall be permitted at predetermined uniformly spaced specific locations. This allows a high degree of safety for the motoring public while providing reasonable access for property owners.

It is the policy of the Department to provide median openings at most existing city streets or county roads. It is also the policy of the Department to provide uniformly spaced openings for U-turn vehicles between median openings for city streets or county roads. The recommended uniform spacing is 1320 feet (a range of 880 feet - 1760 feet is acceptable) in rural areas and 660 feet (a range of 440 feet - 880 feet is acceptable) in urban areas.

Where possible, driveways should be located so that they are aligned with pre-existing median openings. When this is not possible, driveways should be located a minimum of 100 feet from the nearest median opening to minimize wrong-way movement and conflicts with traffic using the median opening.

5.7 Traffic Impact Studies

Due to site characteristics, new land use or development, or other circumstances, the Department may

require that a Traffic Impact Study be submitted. The following is a list of several types of new development as well as guidelines that may determine the necessity of a Traffic Impact Study, however, it is by no means complete or comprehensive. The Department has final authority to determine when a Traffic Impact Study shall be required.

- Shopping Center – 50,000+ gross square feet
- Planned Unit Development – 30+ acres
- Industrial – 200+ employees
- DHV (Design Hourly Volume) of 100 vehicles or more
- ADT (Average Daily Traffic) of 250 vehicles or more
- Residential Development – 50+ single family detached units or 100+ total dwelling units
- Offices – 50,000+ gross square feet
 - Proposed additional turning lanes
 - Proposed signalization
 - Business / Office Parks

A Traffic Impact Study shall meet the criteria established by the Institute of Transportation Engineers and shall be completed and stamped by a qualified professional engineer who is licensed by the State of Tennessee. The study shall analyze traffic conditions for both the initial development and the full development of the site under the most critical traffic situations expected. This is particularly important when considering the development of large areas, such as planned unit developments, business or office parks, large residential neighborhoods, etc. Studies are used to help assess the need for roadway improvements and modification of traffic control and channelizing devices to help alleviate the impact of new development. A Traffic Impact Study must also justify the proposed highway entrance and must demonstrate what effects the proposed development will have on adjacent roadways.

5.8 Auxiliary Lanes

Generally, the need for any type of auxiliary lane should be documented in a Traffic Impact Study. However, in certain situations the Department may elect to require that an auxiliary lane be constructed without requiring a Traffic Impact Study.

When adding auxiliary lanes, the entire roadway at the site should be resurfaced to prevent differential settlement, eliminate undesirable pavement contrast, and provide proper pavement markings. (See Section 5.5 regarding pavement markings) When the design of an auxiliary lane or lanes requires that the through lanes of the highway must be shifted to a new alignment, the entire roadway within the limits of the shift shall be resurfaced. All seams shall be in line with lane boundaries.

5.8.1 Design of Auxiliary Lanes:

The design of acceleration, deceleration, and storage lanes on state highways shall be based on the Department's Design Guidelines. See the TDOT Traffic Engineering Office website's Highway Entrance Permit page for links to Department's Design Guidelines. In addition, design of such lanes shall satisfy the following criteria:

- The installation of any auxiliary lane shall not adversely impact the access of adjacent property.
- If an auxiliary lane is required based on the recommendations of a Traffic Impact Study, the owner of the property shall install the lane(s) within the public right-of-way. Where public right-of-way is not available, the owner shall dedicate any required right-of-way under the owner's control, so that the auxiliary lane may be accommodated.
- Tapers used to introduce or terminate an auxiliary lane should be designed to meet the guidelines set forth in AASHTO's A Policy on Geometric Design of Highways and Streets, current edition, where physically possible.
- Acceleration and deceleration lane lengths should be designed to meet AASHTO guidelines where physically possible.
- Consideration should be given to provide better visibility of opposing through traffic and reducing potential conflicts between opposing left-turn vehicles by aligning opposing left turn lanes or providing a positive offset of left turn lanes.

5.8.2 Unsignalized Intersections:

The determination of a warrant for and the length of left-turn storage lanes at unsignalized intersections shall be based on the Department's Design Guidelines. See the TDOT Traffic Engineering Office website's Highway Entrance Permit page for links to Department's Design Guidelines.

5.8.3 Signalized Intersections:

The length of left-turn and right-turn storage lanes at signalized intersections shall be determined as part of a Traffic Impact Study.

5.9 Department's Design Standards and Guidelines

The edition of the Department's Standard Drawings and Design Guidelines required to be met are the ones in effect on the date of application for a Highway Entrance Permit.

6 – Drainage

6.1 General

Each new entrance and associated buffer areas shall be constructed so as to prevent water from flowing onto the roadway or shoulder and also shall not impair drainage within the right-of-way. In addition, new entrances and buffer areas shall not materially alter the drainage characteristics of adjacent property. All culverts, catch basins, drainage channels, and other drainage structures required within the buffer area and under driveways as the result of the property being developed shall be designed and installed in accordance with current standards set by the Department.

6.2 Design of Drainage Systems

Drainage discharged into the state highway drainage system shall not exceed the undeveloped flow rate, as determined in accordance with the Department's design policy. Applicants may be required to submit a drainage plan, as well as all appropriate hydrologic and hydraulic calculations, which show that the proposed system will adhere to the regulations set forth by the Department, and the plan shall be subject to approval by the appropriate Department official. Required drainage plans shall be stamped by a qualified professional engineer who is licensed by the State of Tennessee.

Drainage pipes shall be a minimum of eighteen inches (18") in diameter, and type "6D" endwalls shall be required if the drainage pipe falls within the clear zone or if the speed limit is greater than or equal to 50 miles per hour. In other conditions, endwalls may still be required (see the TDOT Traffic Engineering Office website's Highway Entrance Permit page for links to Department's Design Guidelines - for further information on endwalls). Drainage pipes underneath driveways shall extend beyond the driveway and radius. All drainage structures, including endwalls and culverts, shall be installed by the applicant in accordance with Department standards. The drainage design must be approved by the Department prior to construction.

6.3 Construction

Erosion and sediment control devices, designed according to Department standards, shall be shown on the drainage plan and installed as the first phase of construction. **Please Note: It is the responsibility of the applicant to ensure that all storm water quality requirements are met. Other agencies that have storm water regulations, such as the Tennessee Department of Environment and Conservation or city and county governments, may require additional drainage management practices.**

Structures connecting to the highway drainage system shall be constructed so as to prevent scour, erosion, and blockage of existing structures. Drainage systems shall not alter the stability of roadway subgrades, nor shall they adversely affect the existing profile or cross-section.

Curbs on driveways or street-type entrances shall not continue beyond the right-of-way line or ditch line

when the driveway or street-type entrance connects to a roadway without curbs.

7 – Engineering Exceptions

7.1 General

It is recognized that certain developments, due to location, topography, or other conditions, may not be able to meet the criteria set forth in this manual. In such cases, the applicant shall request, in writing, that an exception to the Department's policy be made. The request shall show why the requirements of Department policy cannot be met and the effect the proposed exception will have.

All requests for exceptions shall be made to the Region Traffic Engineering Office that is handling the proposed entrance permit. Once reviewed by the Region Traffic Engineer, potentially acceptable requests shall be forwarded to the State Traffic Engineer's Office at Tennessee Department of Transportation Headquarters to grant or deny exception based on the majority decision reached by a panel of transportation professionals with knowledge relevant to the unique conditions of the exception. The panel will meet quarterly and all requests must be received two weeks prior to the scheduled meeting in order to be considered. The Region Traffic Engineering Office that is submitting the request will then be notified of the decision and the Region Traffic Engineering Office will in turn notify the applicant.

All correspondence and notification shall be in writing and shall be included as an addendum to the issued permit.

8– Maintenance

8.1 General

Property Owner’s Responsibility

It is the responsibility of the property owner to maintain the following:

- Entrance surface material (paved or gravel), shoulder and slopes from the highway edge of pavement to the right-of-way line.
- Pavement markings from the highway edge of pavement to the right-of way line.

Department’s Responsibility

It is the responsibility of the Department to maintain the following:

- Entrance drainage structures within the state’s right-of-way, if installed under a Department issued permit. Entrance pipes and culverts properly installed on public right-of-way under a highway entrance permit become the property of the Department.

Approved Permitting Authority’s Responsibility

It is the responsibility of the local permitting authority within their jurisdiction to maintain the following:

- Entrance drainage structures within the state’s right-of-way, if installed under a Municipality issued permit. Entrance pipes and culverts properly installed on public right-of-way under a highway entrance permit become the property of the Municipality.

Refer to Section 2.3 of this manual for a detailed discussion on local authorities with sole responsibility for issuing Highway Entrance Permits within their jurisdiction.

A – Example Drawings

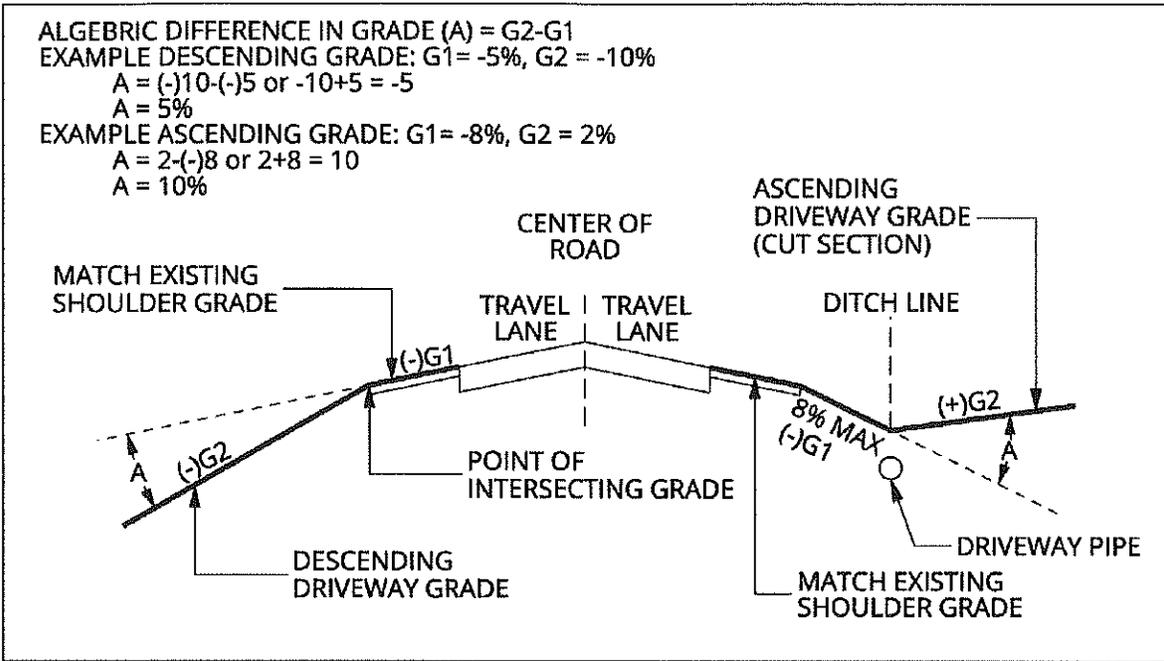
The following diagrams are included for illustrative purposes only. Applicants may use them as a guide, but each location must be considered individually. Actual layouts of planned highway entrances may differ based on topography, property line configuration, sight distance, traffic generated by new development, or other factors.

Legend

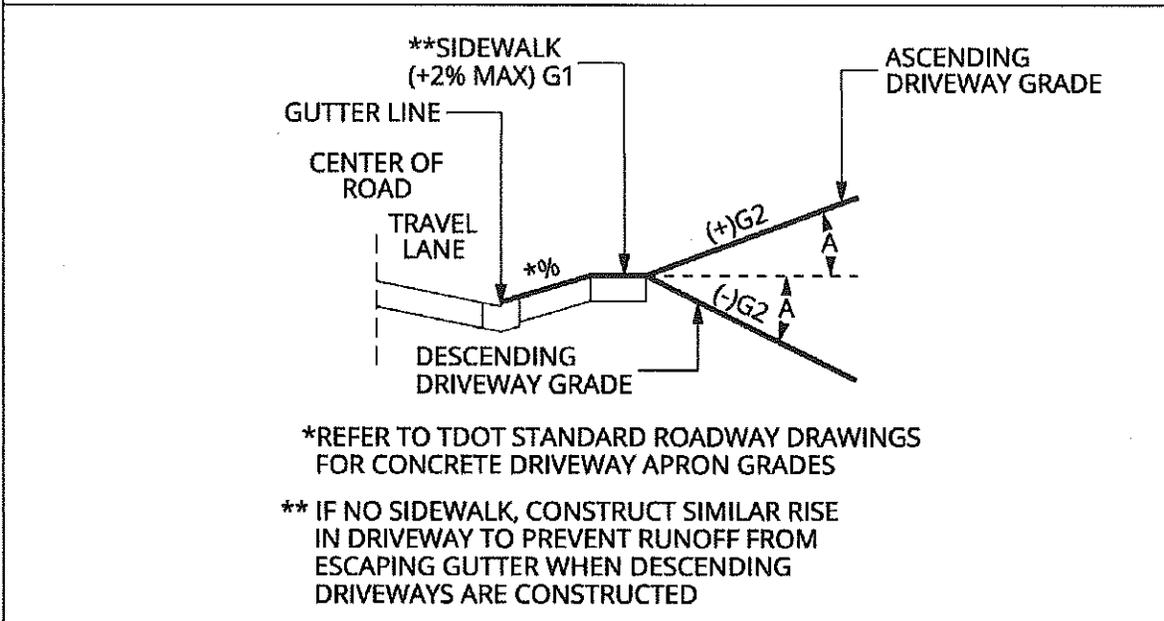
E = Edge Clearance	C = Corner Clearance
W = Width	CB = Commercial Border Area Clearance
R = Radius of Curvature	F = Fuel Pump Clearance
Y = Driveway Angle	D = Distance b/w Double Driveways
R.O.W. = Right-of-Way	F.B. = Frontage Boundary
G1 = Grade of Roadway Constraint	G2 = Grade of Driveway
A = Algebraic Difference In Grade (G2%-G1%)	

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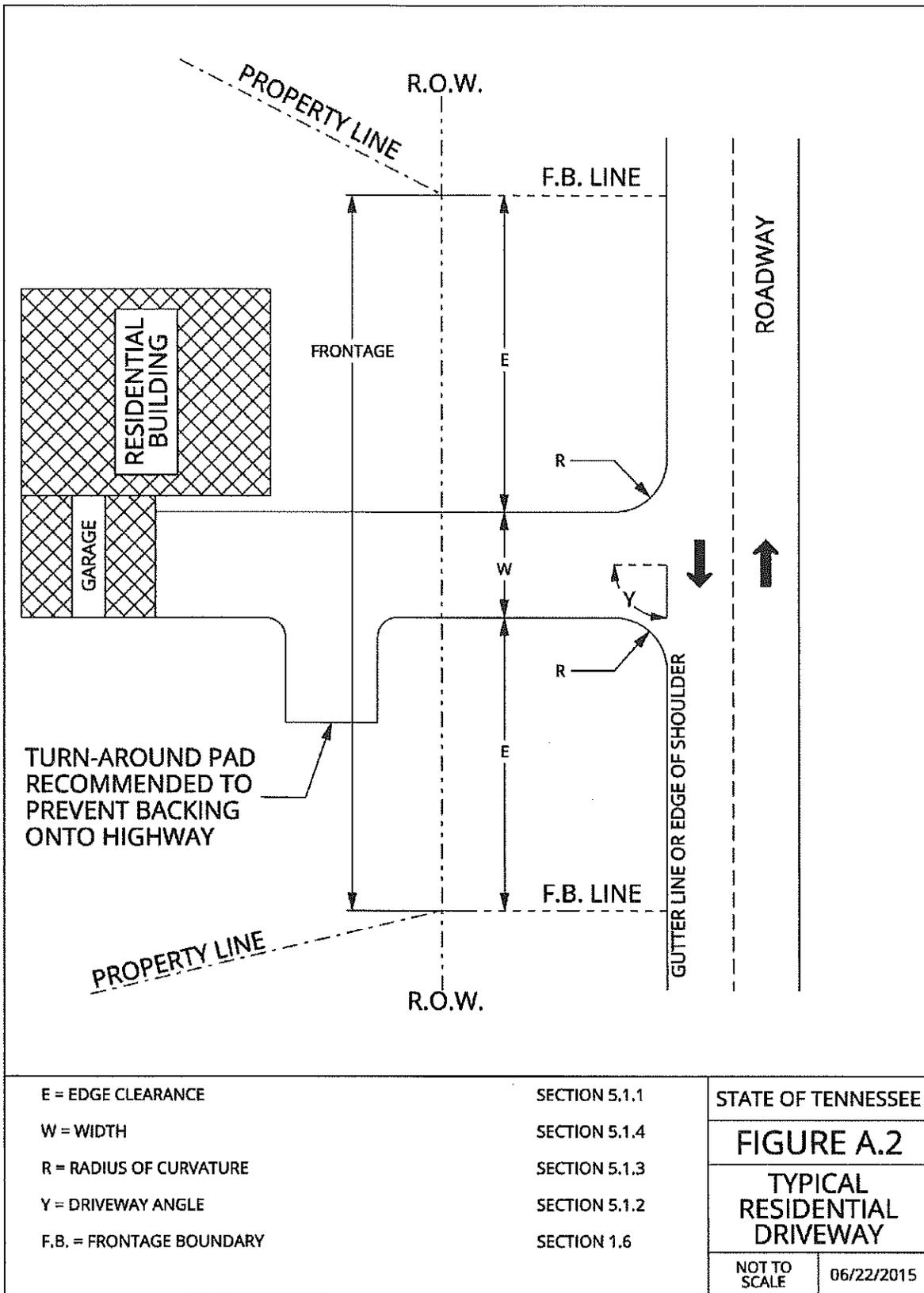


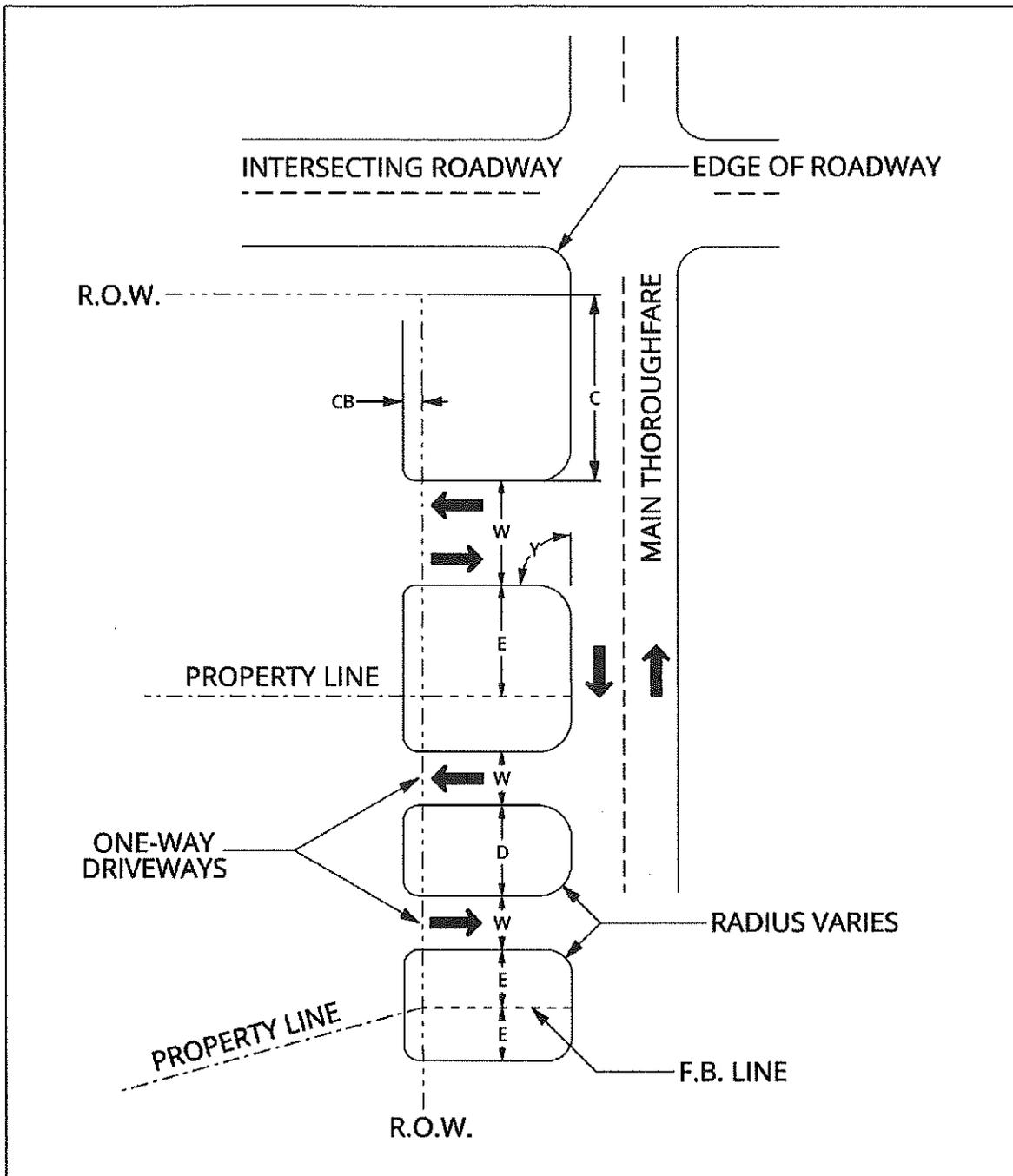
ROADWAYS WITH SHOULDERS



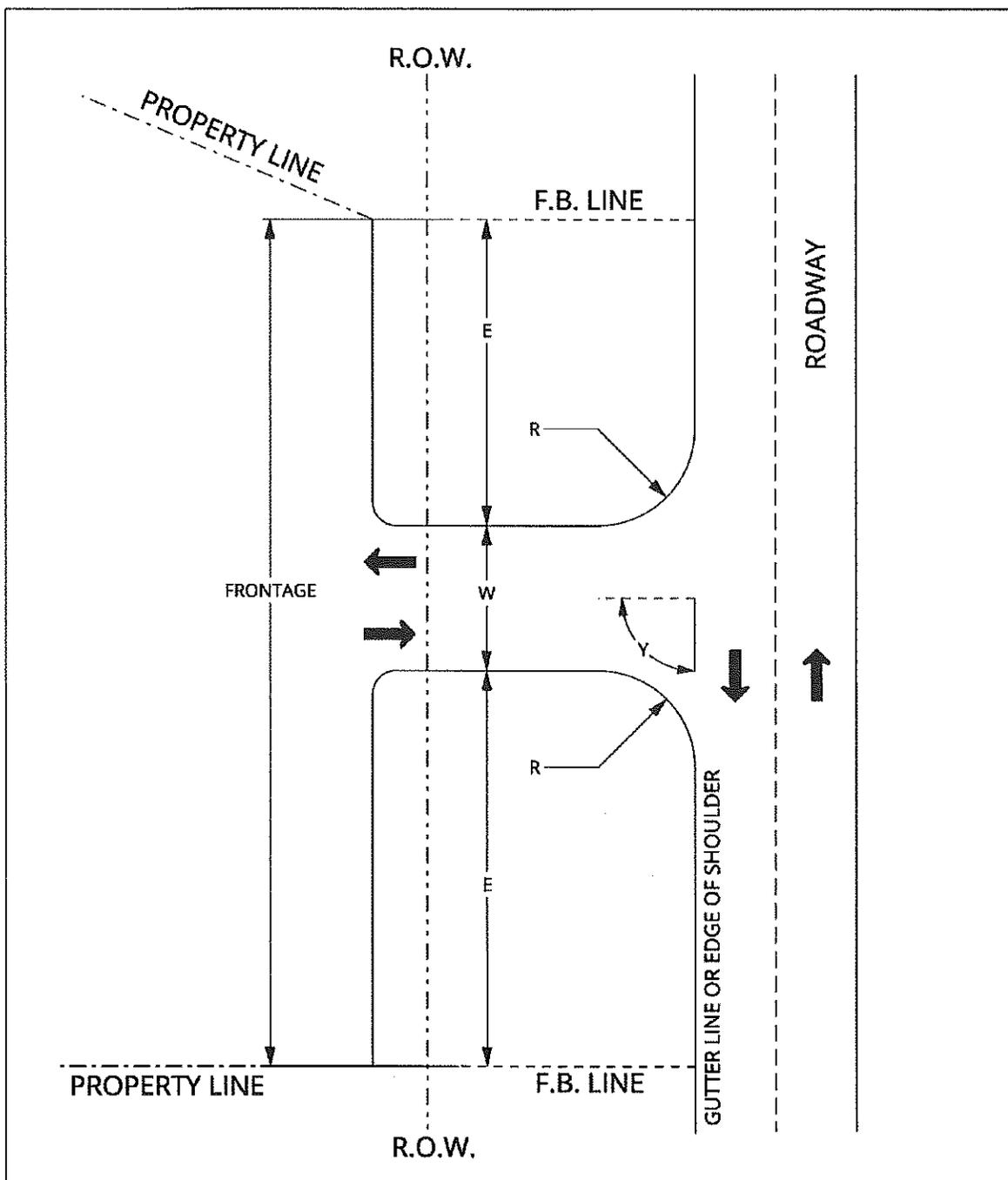
ROADWAYS WITH CURB

A = ALGEBRAIC DIFFERENCE (G2%-G1%)	SECTION 5.3	STATE OF TENNESSEE
G1 = GRADE OF ROADWAY CONSTRAINT	SECTION 5.3	
G2 = GRADE OF DRIVEWAY	SECTION 5.3	FIGURE A.1
FIGURE A.1 DOES NOT SHOW PROFILES FOR NEW STREET CONNECTIONS. REFER TO TDOT STANDARD ROADWAY DRAWINGS		DRIVEWAY PROFILE SCHEMATIC
		NOT TO SCALE
		06/22/2015

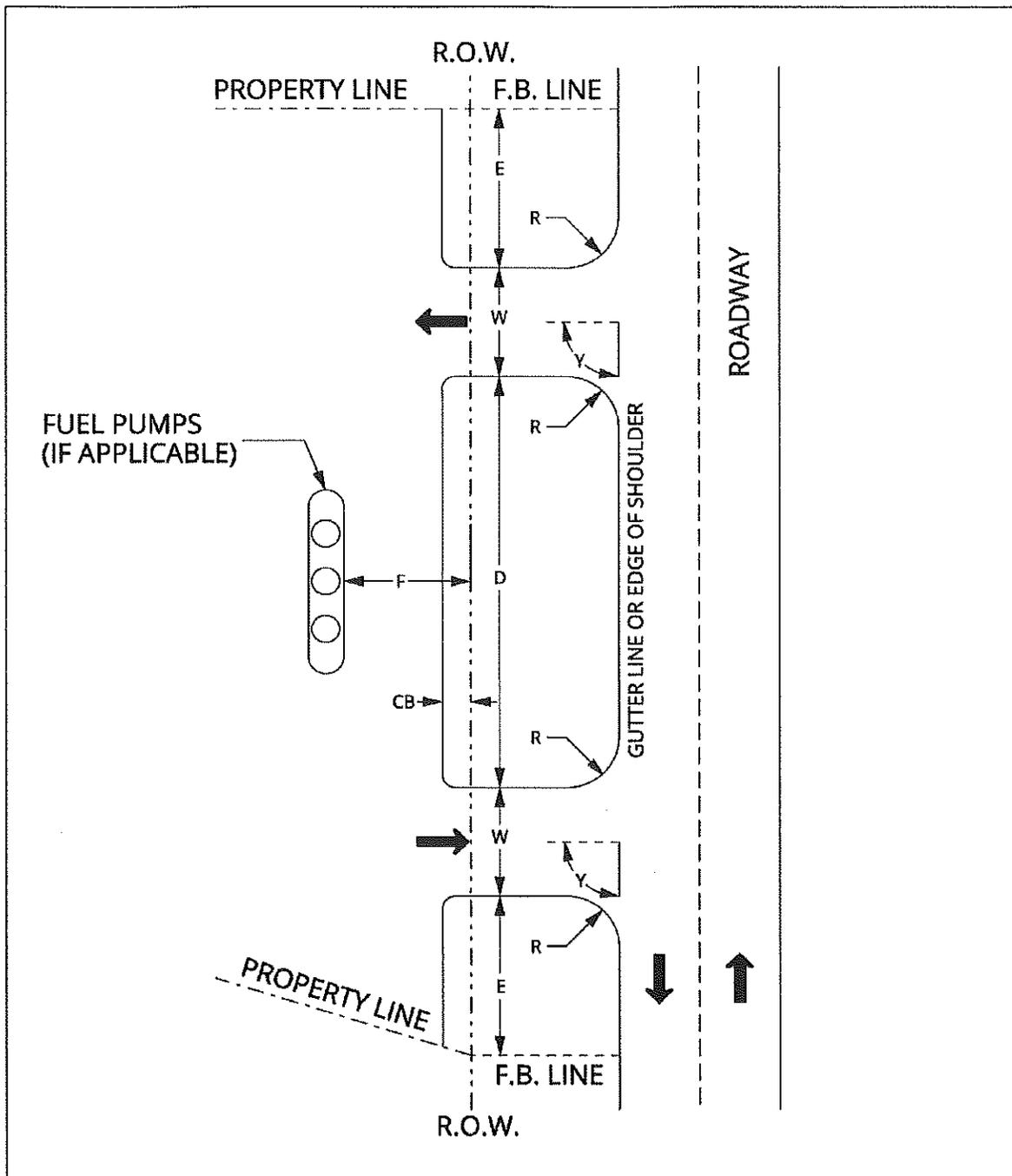




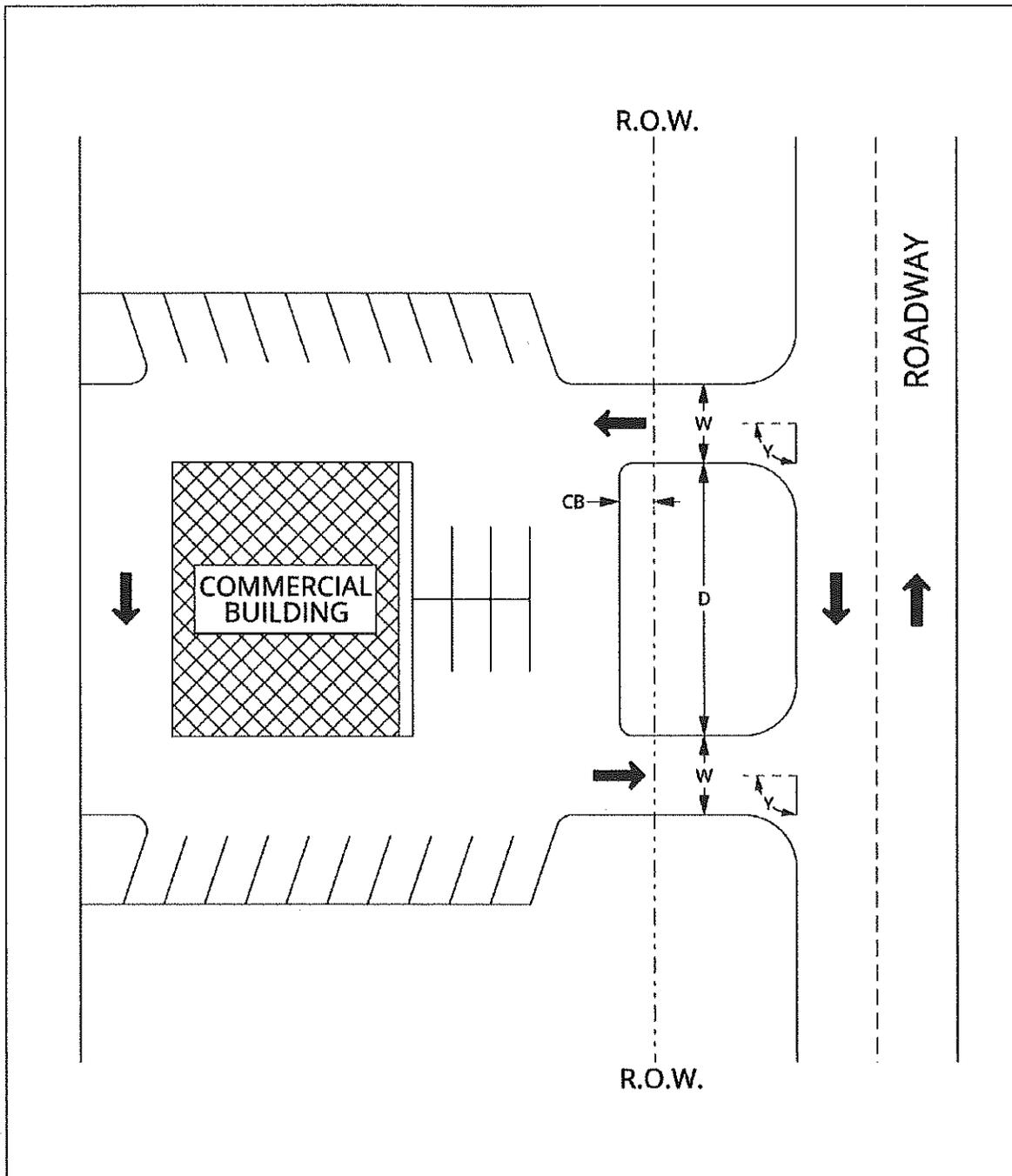
E = EDGE CLEARANCE	SECTION 5.1.1	STATE OF TENNESSEE	
W = WIDTH	SECTION 5.1.4	FIGURE A.3	
Y = DRIVEWAY ANGLE	SECTION 5.1.2	COMMERCIAL DRIVEWAY	
C = CORNER CLEARANCE	SECTION 5.1.5	CONTROL	
CB = COMMERCIAL BORDER AREA CLEARANCE	SECTION 5.1.8	DIMENSIONS	
D = DISTANCE BETWEEN DOUBLE DRIVEWAYS	SECTION 5.1.6	NOT TO	06/22/2015
F.B. = FRONTAGE BOUNDARY	SECTION 1.6	SCALE	



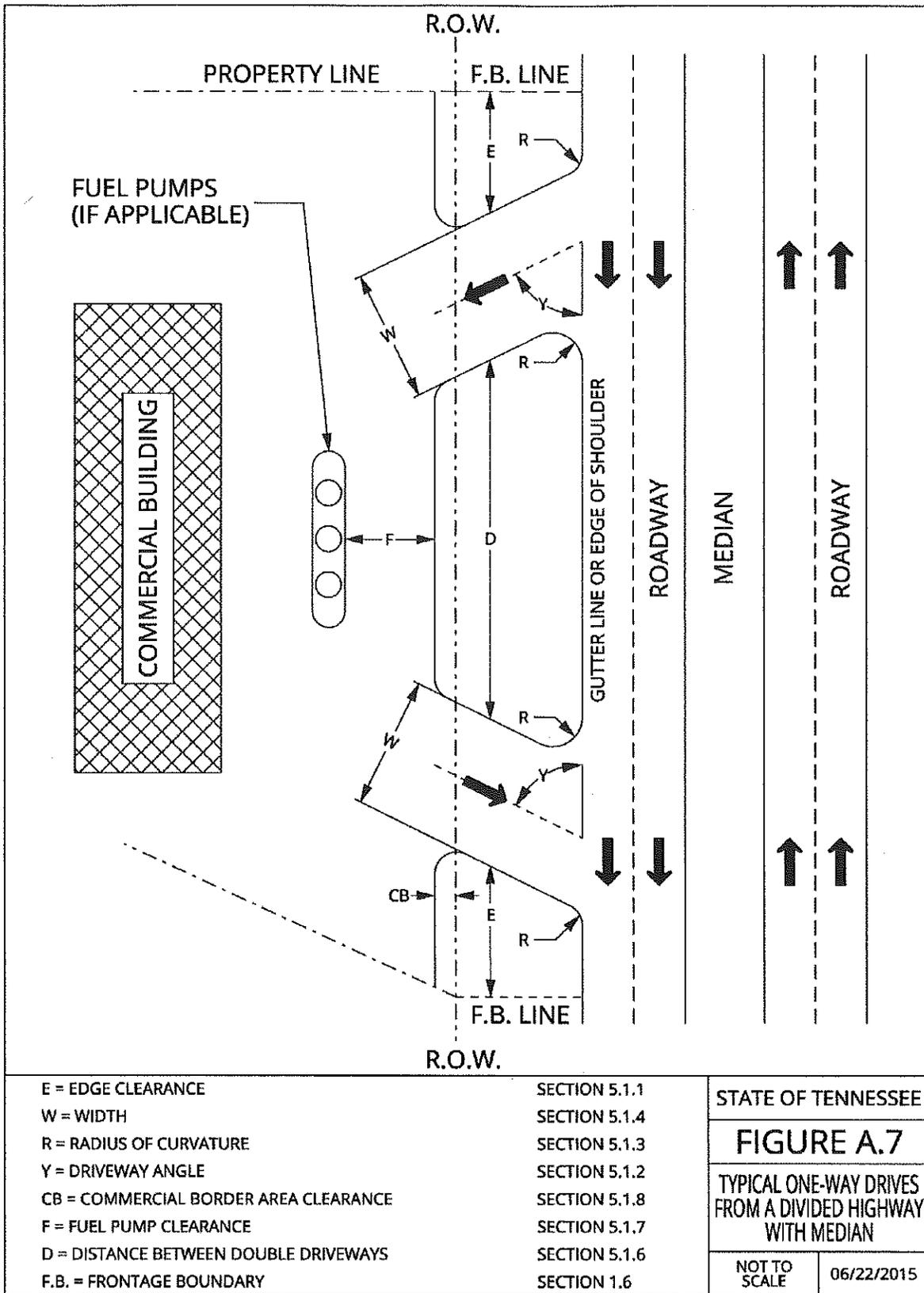
E = EDGE CLEARANCE	SECTION 5.1.1	STATE OF TENNESSEE	
W = WIDTH	SECTION 5.1.4	FIGURE A.4	
R = RADIUS OF CURVATURE	SECTION 5.1.3	TYPICAL TWO-WAY COMMERCIAL DRIVEWAY	
Y = DRIVEWAY ANGLE	SECTION 5.1.2		
F.B. = FRONTAGE BOUNDARY	SECTION 1.6		
		NOT TO SCALE	06/22/2015

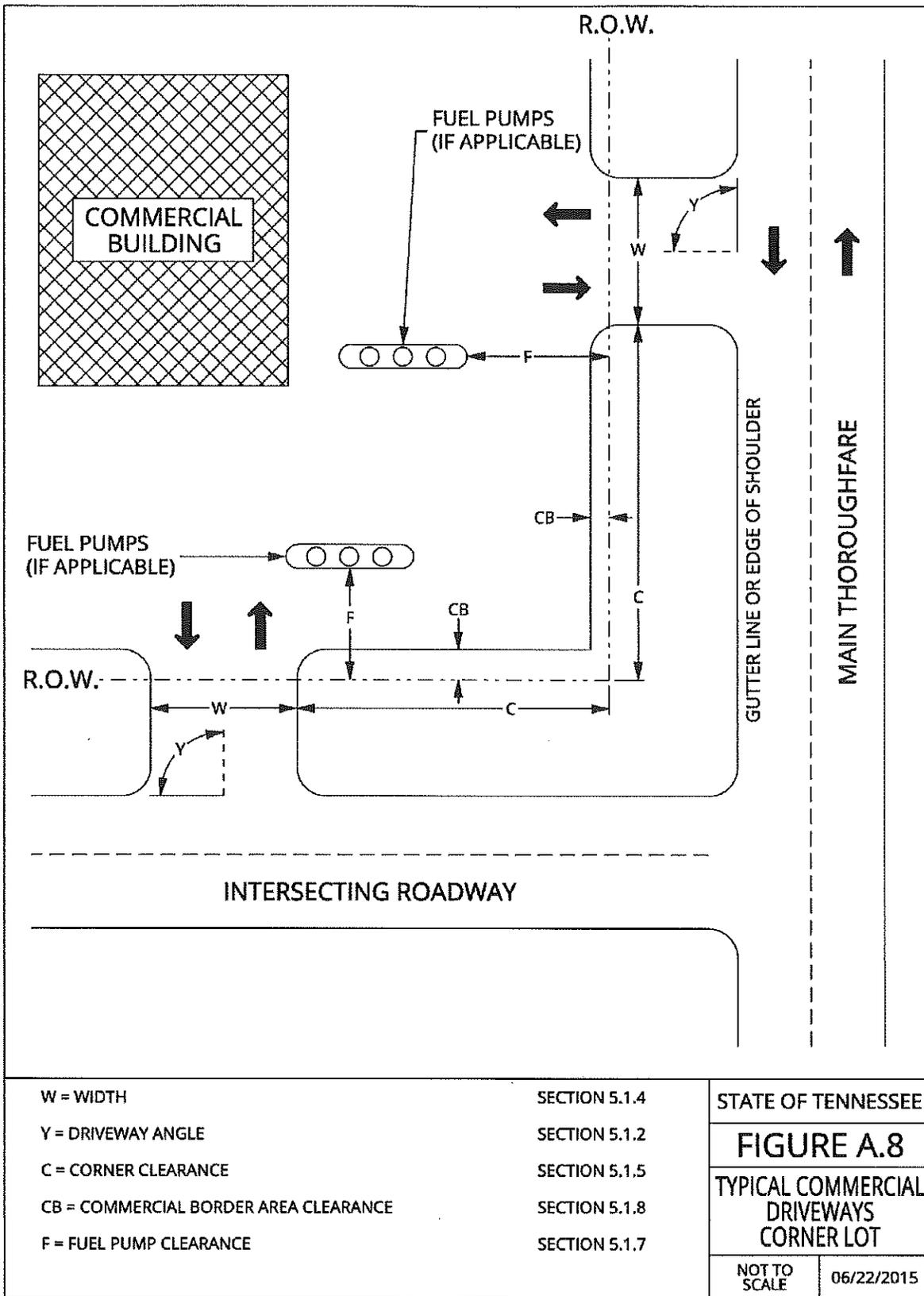


E = EDGE CLEARANCE	SECTION 5.1.1	STATE OF TENNESSEE	
W = WIDTH	SECTION 5.1.4	FIGURE A.5	
R = RADIUS OF CURVATURE	SECTION 5.1.3	TYPICAL ONE-WAY	
Y = DRIVEWAY ANGLE	SECTION 5.1.2	COMMERCIAL	
CB = COMMERCIAL BORDER AREA CLEARANCE	SECTION 5.1.8	DRIVEWAY	
F = FUEL PUMP CLEARANCE	SECTION 5.1.7	NOT TO	06/22/2015
D = DISTANCE BETWEEN DOUBLE DRIVEWAYS	SECTION 5.1.6	SCALE	
F.B. = FRONTAGE BOUNDARY	SECTION 1.6		

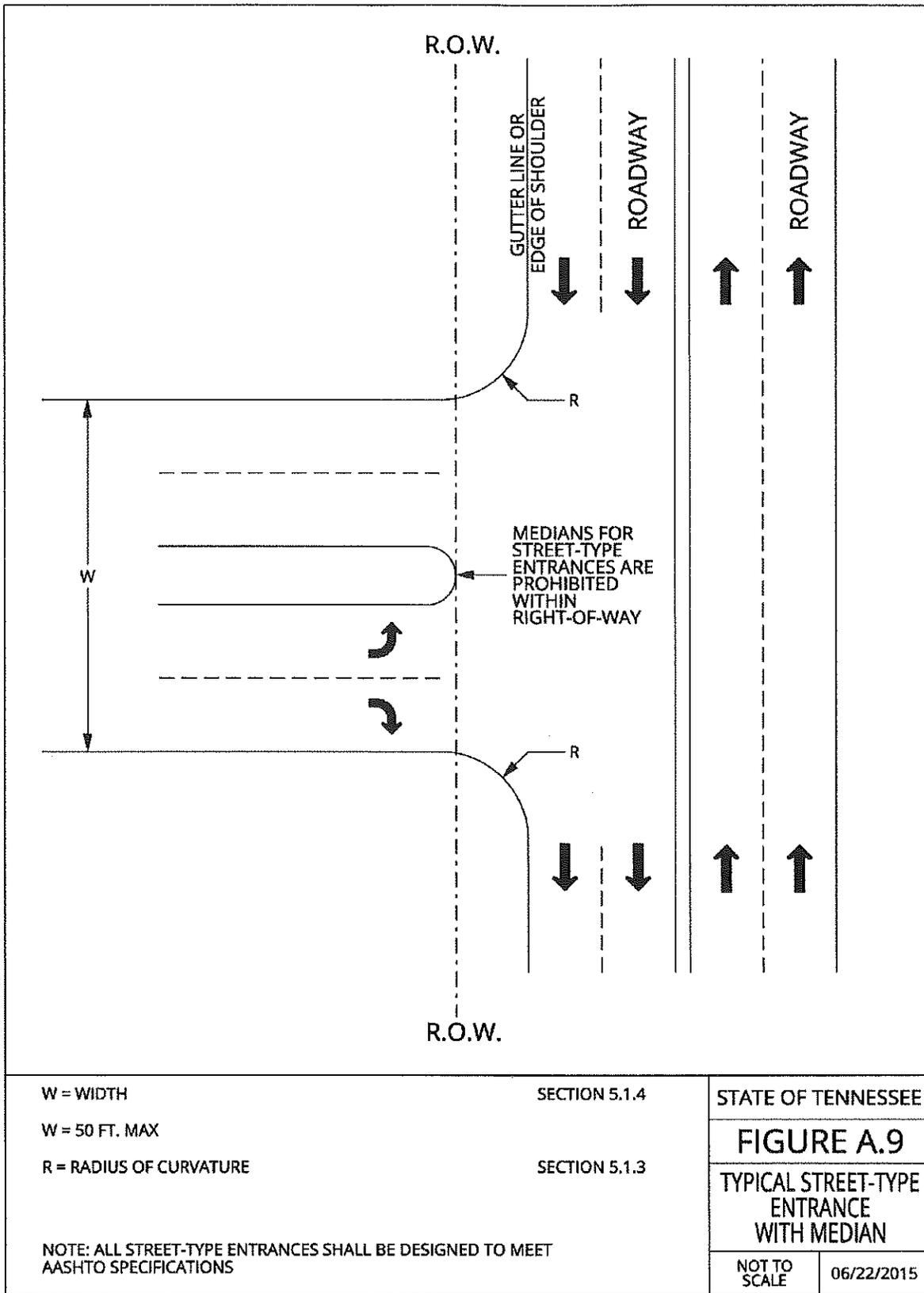


W = WIDTH	SECTION 5.1.4	STATE OF TENNESSEE	
Y = DRIVEWAY ANGLE	SECTION 5.1.2	FIGURE A.6	
CB = COMMERCIAL BORDER AREA CLEARANCE	SECTION 5.1.8	TYPICAL COMMERCIAL DRIVE-THROUGH WITH ONE-WAY DRIVEWAYS	
D = DISTANCE BETWEEN DOUBLE DRIVEWAYS	SECTION 5.1.6	NOT TO SCALE	06/22/2015

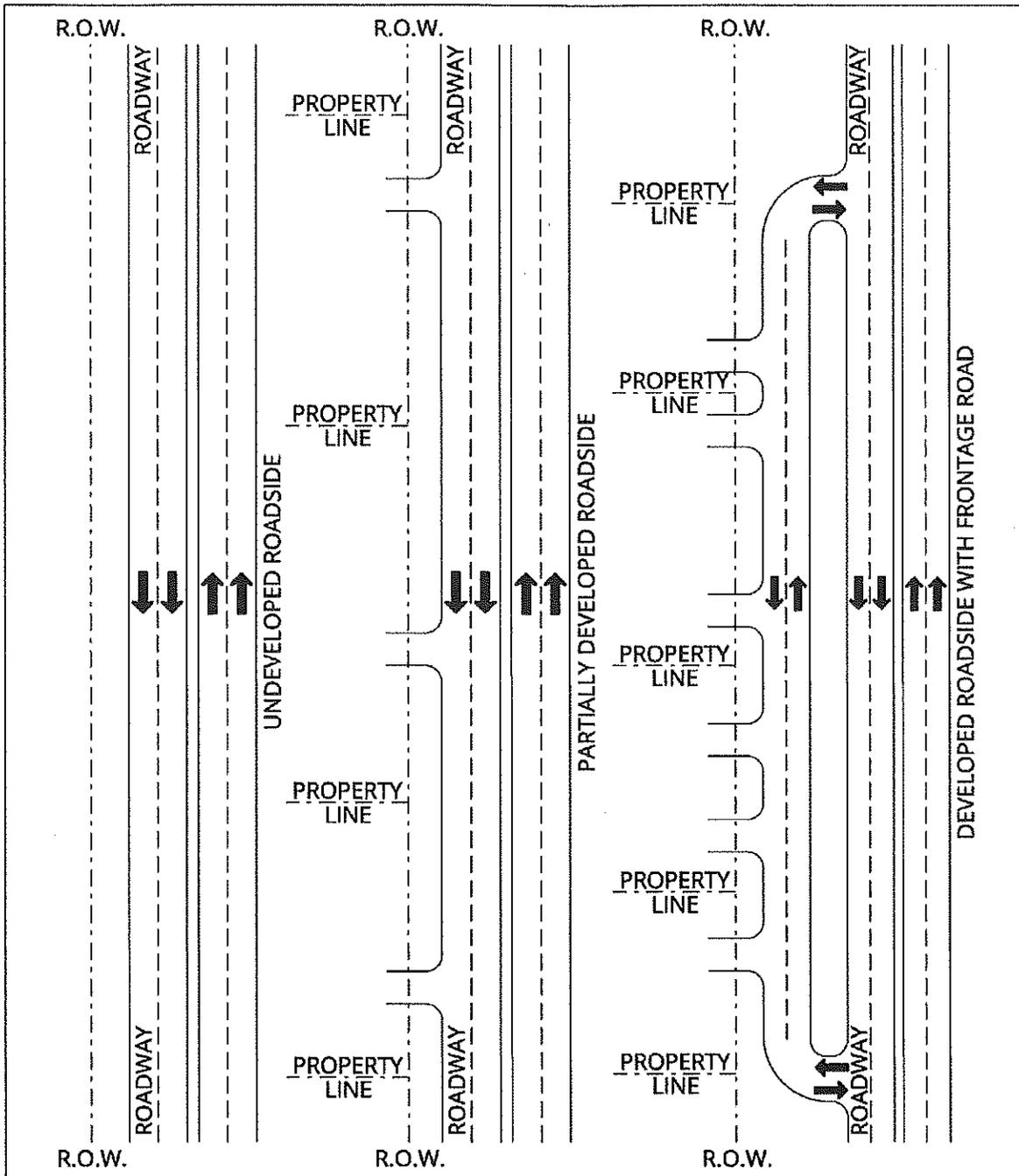




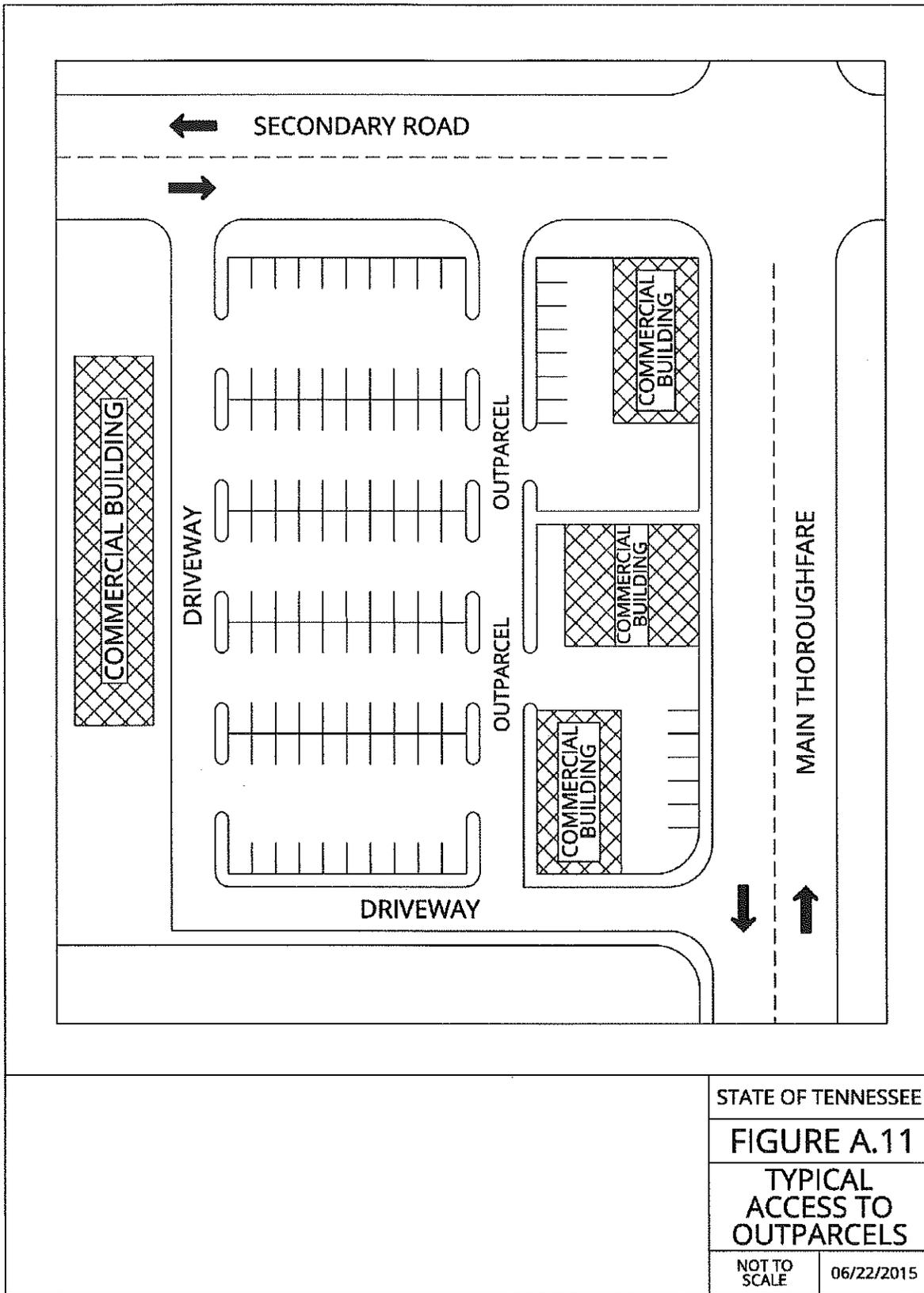
STATE OF TENNESSEE	
FIGURE A.8	
TYPICAL COMMERCIAL DRIVEWAYS CORNER LOT	
NOT TO SCALE	06/22/2015



W = WIDTH	SECTION 5.1.4	STATE OF TENNESSEE	
W = 50 FT. MAX		FIGURE A.9	
R = RADIUS OF CURVATURE	SECTION 5.1.3	TYPICAL STREET-TYPE ENTRANCE WITH MEDIAN	
NOTE: ALL STREET-TYPE ENTRANCES SHALL BE DESIGNED TO MEET AASHTO SPECIFICATIONS		NOT TO SCALE	06/22/2015



STATE OF TENNESSEE	
FIGURE A.10	
TYPICAL FRONTAGE ROAD DEVELOPMENT	
NOT TO SCALE	06/22/2015



STATE OF TENNESSEE	
FIGURE A.11	
TYPICAL ACCESS TO OUTPARCELS	
NOT TO SCALE	06/22/2015

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department (board/commission/ other authority) on 09/21/2015 (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: 04/16/15

Rulemaking Hearing(s) Conducted on: (add more dates). 06/11/15

Date: 9-21-2015

Signature: [Handwritten Signature]

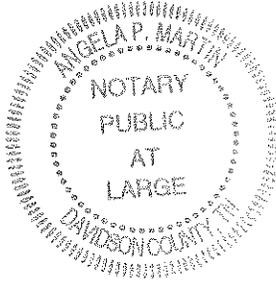
Name of Officer: John C. Schroer

Title of Officer: Commissioner

Subscribed and sworn to before me on: 21st September, 2015

Notary Public Signature: Angela P. Martin

My commission expires on: 3/8/2016



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

[Handwritten Signature: Herbert H. Slatery III]
Herbert H. Slatery III
Attorney General and Reporter

12/11/2015 Date

Department of State Use Only

Filed with the Department of State on: 12/28/15

Effective on: 3/27/16

[Handwritten Signature: Tre Hargett]
Tre Hargett
Secretary of State

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G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Commerce and Insurance,
Insurance Division

SUBJECT: Insurance Holding Company System Regulation
with Reporting Forms and Instructions

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 56-2-301 and 56-11-
109

EFFECTIVE DATES: March 1, 2016, through June 30, 2016

FISCAL IMPACT: None

STAFF RULE ABSTRACT: According to the Department, the rulemaking
hearing rule establishes new and amended filing
and reporting requirements for insurance
companies in holding company systems in this
state.

Public Hearing Comments

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

Comment 1

0780-01-67-.17(1)(d)3.

It was commented by two commenters that the calculation for extraordinary dividend capacity for life insurance companies should contemplate only net gains from operations, and should not include any net realized capital gains or losses in such calculations; specifically, this calculation should contemplate line 33 of a company's annual statement.

Agency Response to Comment 1

The Department agrees to keep the life insurance company calculation for extraordinary dividend capacity consistent with the calculation contemplated in the existing rule and present practices. The Department intends to work with other states and the NAIC to seek clarity regarding the calculation of certain dividends.

Regulatory Flexibility Addendum

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

The Department of Commerce and Insurance has considered whether the proposed rules in these Rulemaking Hearing Rules are such that they will have an economic impact on small businesses (businesses with fifty (50) or fewer employees). The proposed rules are not anticipated to have a significant impact on small businesses. Tenn. Code Ann. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583 authorize the Commissioner to promulgate rules in order to regulate the reporting and filing requirements for insurance companies in holding company systems. The proposed rules establish reporting and filing requirements for any insurance company in a holding company system in the State of Tennessee.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) The proposed rules will only apply to insurance companies in holding company systems. While there may be some insurance companies considered to be small business affected by these rules, it is estimated that this number is small.
- (2) The projected reporting, recordkeeping, and other administrative costs associated with compliance with this proposed rule, are not anticipated to increase from that which exists under the current rules these proposed rules amend.
- (3) The effect on small businesses is minimal. The proposed amendment will have no effect on consumers, and will only affect those insurance companies in holding company systems.
- (4) There are no alternative methods to make the proposed rule less costly, less intrusive, or less burdensome.
- (5) This proposed rule was developed by the NAIC with industry input and support (NAIC Model Rule No. 450). Furthermore, this rule is an accreditation standard, required by the NAIC.
- (6) Only insurance companies in holding company systems are required to comply with this rule. Exempting any company from these proposed rules would place Tennessee residents at a risk of being affected by unregulated, and potentially financially unsuitable, insurance transactions within the State of Tennessee.

Impact on Local Governments

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

This rule will not have an impact on local governments.

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 Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 12-01-15
 Rule ID(s): 6072
 File Date: 12/2/15
 Effective Date: 3/1/16

Rulemaking Hearing Rule(s) Filing Form

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

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

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Insurance
Contact Person:	Kathleen Dixon, Assistant General Counsel
Address:	Davy Crockett Tower 500 James Robertson Parkway, 8 th Floor Nashville, Tennessee
Zip:	37243
Phone:	615-532-6830
Email:	kathleen.dixon@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
0780-01-67	Insurance Holding Company System Regulation with Reporting Forms and Instructions
Rule Number	Rule Title
0780-01-67-.01	Authority
0780-01-67-.02	Purpose
0780-01-67-.03	Definitions
0780-01-67-.04	Forms — General Requirements
0780-01-67-.05	Forms — Incorporation by Reference, Summaries and Omissions
0780-01-67-.06	Forms — Information Unknown or Unavailable and Extension of Time to Furnish
0780-01-67-.07	Forms — Additional Information and Exhibits
0780-01-67-.08	Acquisition of Control—Statement Filing (Form A)
0780-01-67-.09	Amendments to Form A
0780-01-67-.10	Acquisition of Domestic Insurers
0780-01-67-.11	Pre-Acquisition Notification (Form E)
0780-01-67-.12	Annual Registration of Insurers - Statement Filing (Form B)
0780-01-67-.13	Summary of Registration - Statement Filing (Form C)
0780-01-67-.14	Alternative and Consolidated Registration

0780-01-67-.15	Disclaimers and Termination of Registration
0780-01-67-.16	Transactions Subject to Prior Notice – Notice Filing (Form D)
0780-01-67-.17	Extraordinary Dividends and Other Distributions
0780-01-67-.18	Adequacy of Surplus
0780-01-67-.19	Subsidiaries of Domestic Insurers
0780-01-67-.20	Amendments to Form B
0780-01-67-.21	Enterprise Risk Report
0780-01-67-.22	Nonrefundable Fee for Review of Form A Filings and Filings for Mergers Between Stock Insurance Companies
0780-01-67-.23	Severability Clause
Form A	Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer
Form B	Insurance Holding Company System Annual Registration Statement
Form C	Summary of Changes to Registration Statement
Form D	Prior Notice of a Transaction
Form E	Pre-Acquisition Notification Form
Form F	Enterprise Risk Report

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 0780-01-67
Insurance Holding Company System Regulation with Reporting Forms and Instructions

Amendments

Chapter 0780-01-67, Insurance Holding Company System Regulation with Reporting Forms and Instructions, is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

Chapter 0780-01-67
Insurance Holding Company System Regulation with Reporting Forms and Instructions

Table of Contents

0780-01-67-.01	Authority
0780-01-67-.02	Purpose
0780-01-67-.03	Definitions
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0780-01-67-.06	Forms — Information Unknown or Unavailable and Extension of Time to Furnish
0780-01-67-.07	Forms — Additional Information and Exhibits
0780-01-67-.08	Acquisition of Control—Statement Filing (Form A)
0780-01-67-.09	Amendments to Form A
0780-01-67-.10	Acquisition of Domestic Insurers
0780-01-67-.11	Pre-Acquisition Notification (Form E)
0780-01-67-.12	Annual Registration of Insurers - Statement Filing (Form B)
0780-01-67-.13	Summary of Registration - Statement Filing (Form C)
0780-01-67-.14	Alternative and Consolidated Registration
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0780-01-67-.16	Transactions Subject to Prior Notice – Notice Filing (Form D)
0780-01-67-.17	Extraordinary Dividends and Other Distributions
0780-01-67-.18	Adequacy of Surplus
0780-01-67-.19	Subsidiaries of Domestic Insurers
0780-01-67-.20	Amendments to Form B
0780-01-67-.21	Enterprise Risk Report
0780-01-67-.22	Nonrefundable Fee for Review of Form A Filings and Filings for Mergers Between Stock Insurance Companies
0780-01-67-.23	Severability Clause

Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer
Form B Insurance Holding Company System Annual Registration Statement
Form C Summary of Changes to Registration Statement
Form D Prior Notice of a Transaction
Form E Pre-Acquisition Notification Form
Form F Enterprise Risk Report

0780-01-67-.01 Authority.

This Chapter is promulgated pursuant to the authority granted by T.C.A. §§ 56-2-301 and 56-11-109, and additionally as to health maintenance organizations, by T.C.A. §§ 56-32-121(d) and 56-32-122.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119, and Acts 2014, Ch. 583.

0780-01-67-.02 Purpose.

The purpose of this Chapter is to set forth rules and procedural requirements which the Commissioner deems necessary to carry out the provisions of the Insurance Holding Company System Act, T.C.A. §§ 56-11-101 et seq., hereinafter referred to as "the Act." The information called for by this Chapter has been prescribed by the National Association of Insurance Commissioners and is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this State.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.03 Definitions.

- (1) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.
- (2) "Ultimate controlling person" means that person which is not controlled by any other person.
- (3) Unless the context otherwise requires, other terms found in this Chapter and in T.C.A. §56-11-101 are used as defined in the Act. Other nomenclature or terminology is according to T.C.A., Title 56, or industry usage if not defined by Title 56.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.04 Forms — General Requirements.

- (1) Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by T.C.A. §§ 56-11-103 through 56-11-106. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made.
- (2) Three (3) complete copies of each statement including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or mail addressed to: Commissioner of the Department of Commerce and Insurance, State of Tennessee, 500 James Robertson Parkway, Nashville, Tennessee 37243, Attention: Director, Financial Affairs Section. At least one of the copies shall be signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority shall also be filed with the statement.

- (3) If an applicant requests a hearing on a consolidated basis under T.C.A. § 56-11-103(d)(3), in addition to filing the Form A with the commissioner, the applicant shall file a copy of Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.
- (4) Statements shall be easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into United States currency.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.05 Forms — Incorporation by Reference, Summaries and Omissions.

- (1) Information required by an item of Form A, Form B, Form D, Form E or Form F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, Form B, Form D, Form E or Form F provided the document is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the Commissioner which were filed within three (3) years need not be attached as exhibits. References to information contained in exhibits or in documents already on file shall clearly identify the material and shall specifically indicate that such material is to be incorporated by reference in answer to the item. Matter shall not be incorporated by reference in any case where the incorporation would render the statement incomplete, unclear or confusing.
- (2) Where an item requires a summary or outline of the provisions of any document, only a brief statement shall be made as to the pertinent provisions of the document. In addition to the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the Commissioner which was filed within three (3) years and may be qualified in its entirety by such reference. In any case where two (2) or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which the documents differ from the documents, a copy of which is filed.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.06 Forms — Information Unknown or Unavailable and Extension of Time to Furnish.

If it is impractical to furnish any required information, document or report at the time it is required to be filed, there shall be filed with the Commissioner a separate document:

- (1) Identifying the information, document or report in question;
- (2) Stating why the filing thereof at the time required is impractical; and
- (3) Requesting an extension of time for filing the information, document or report to a specified date. The request for extension shall be deemed granted unless the Commissioner within sixty (60) days after receipt thereof enters an order denying the request.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.07 Forms — Additional Information and Exhibits.

In addition to the information expressly required to be included in Form A, Form B, Form C, Form D, Form E and Form F, the Commissioner may request such further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file such exhibits as it may

desire in addition to those expressly required by the statement. The exhibits shall be so marked as to indicate clearly the subject matters to which they refer. Changes to Form A, B, C, D, E or F shall include on the top of the cover page the phrase: "Change No. [insert number] to" and shall indicate the date of the change and not the date of the original filing.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.08 Acquisition of Control—Statement Filing (Form A).

A person required to file a statement pursuant to T.C.A. § 56-11-103 shall furnish the required information on Form A, hereby made a part of this Chapter. Such person shall also furnish the required information on Form E, hereby made a part of this Chapter and described in Rule 0780-01-67-.11.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.09 Amendments to Form A.

The applicant shall promptly advise the Commissioner of any changes in the information furnished on Form A arising subsequent to the date upon which the information was furnished but prior to the Commissioner's disposition of the application.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.10 Acquisition of Domestic Insurers.

- (1) If the person being acquired is deemed to be a "domestic insurer" solely because of the provisions of T.C.A. § 56-11-103(a)(4)-(5), the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company."

- (2) Where a T.C.A. § 56-11-103(a)(4)-(5) insurer is being acquired, references to "the insurer" contained in Form A shall refer to both the domestic subsidiary insurer and the person being acquired.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.11 Pre-Acquisition Notification (Form E).

- (1) If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition pursuant to T.C.A. § 56-11-103(a) that person shall file a pre-acquisition notification form, Form E, which was developed pursuant to T.C.A. § 56-11-104(c)(1).
- (2) Additionally, if a non-domiciliary insurer licensed to do business in this state is proposing a merger or acquisition pursuant to T.C.A. § 56-11-104 that person shall file a pre-acquisition notification form, Form E. No pre-acquisition notification form need be filed if the acquisition is beyond the scope of T.C.A. § 56-11-104 as set forth in T.C.A. § 56-11-104(b)(2).
- (3) In addition to the information required by Form E, the Commissioner may wish to require an expert opinion as to the competitive impact of the proposed acquisition.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.12 Annual Registration of Insurers - Statement Filing (Form B).

An insurer required to file an annual registration statement pursuant to T.C.A. § 56-11-105 shall furnish the required information on Form B, hereby made a part of this Chapter.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.13 Summary of Registration - Statement Filing (Form C).

An insurer required to file an annual registration statement pursuant to T.C.A. § 56-11-105 is also required to furnish information required on Form C, hereby made a part of this Chapter.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.14 Alternative and Consolidated Registration.

- (1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under T.C.A. § 56-11-105. A registration statement may include information not required by the Act regarding any insurer in the insurance holding company system even if the insurer is not authorized to do business in this State. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its State of domicile, provided:
 - (a) The statement or report contains substantially similar information required to be furnished on Form B; and
 - (b) The filing insurer is the principal insurance company in the insurance holding company system.
- (2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, shall set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.
- (3) With the prior approval of the Commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under paragraph (1) above.
- (4) Any insurer may take advantage of the provisions of T.C.A. § 56-11-105(h) and (i) without obtaining the prior approval of the Commissioner. The Commissioner, however, reserves the right to require individual filings if he or she deems such filings necessary in the interest of clarity, ease of administration or the public good.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.15 Disclaimers and Termination of Registration.

- (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") shall contain the following information:
 - (a) The number of authorized, issued and outstanding voting securities of the subject;
 - (b) With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly;
 - (c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person;
 - (d) A statement explaining why the person should not be considered to control the subject.
- (2) A request for termination of registration shall be deemed to have been granted unless the Commissioner, within thirty (30) days after receipt of the request, notifies the registrant otherwise.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.16 Transactions Subject to Prior Notice – Notice Filing (Form D).

- (1) An insurer required to give notice of a proposed transaction pursuant to T.C.A. §56-11-106 shall furnish the required information on Form D, hereby made a part of this Chapter.
- (2) Agreements for cost sharing services and management services shall at a minimum and as applicable:
 - (a) Identify the person providing services and the nature of such services;
 - (b) Set forth the methods to allocate costs;
 - (c) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;
 - (d) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;
 - (e) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;
 - (f) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;
 - (g) Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer;
 - (h) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;
 - (i) Include standards for termination of the agreement with and without cause;
 - (j) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;
 - (k) Specify that, if the insurer is placed in receivership or seized by the commissioner under Title 56, Chapter 9:
 1. All of the rights of the insurer under the agreement extend to the receiver or commissioner; and,
 2. All books and records will immediately be made available to the receiver or the commissioner, and shall be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;
 - (l) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 56, Chapter 9; and
 - (m) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the commissioner under the Title 56, Chapter 9, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.17 Extraordinary Dividends and Other Distributions.

- (1) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders shall include the following:
 - (a) The amount of the proposed dividend;

- (b) The date established for payment of the dividend;
 - (c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description thereof, its cost, and its fair market value together with an explanation of the basis for valuation;
 - (d) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper shall include the following information:
 1. The amounts, dates and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;
 2. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding;
 3. If the insurer is a life insurer, the net gain from operations for the 12-month period ending the 31st day of December next preceding;
 4. If the insurer is not a life insurer, the net income less realized capital gains for the 12-month period ending the 31st day of December next preceding; and
 5. If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two (2) calendar years;
 - (e) A balance sheet and statement of income for the period intervening from the last annual statement filed with the Commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and
 - (f) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.
- (2) Subject to T.C.A. §56-11-106(b) each registered insurer and each registered health maintenance organization shall report to the Commissioner all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information required by subparagraph (1)(d) above.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.18 Adequacy of Surplus.

The factors set forth in T.C.A. § 56-11-106(d) are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The Commissioner instead will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the Commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the Commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.19 Subsidiaries of Domestic Insurers.

The authority to invest in subsidiaries under T.C.A. § 56-11-102(b) is in addition to any authority to invest in subsidiaries which may be contained in any other provision of T.C.A., Title 56.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.20 Amendments to Form B.

- (1) An amendment to Form B shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement.
- (2) Amendments shall be filed in the Form B format with only those items which are being amended reported. Each amendment shall include at the top of the cover page "Amendment No. [insert number] to Form B for [insert year]" and shall indicate the date of the change and not the date of the original filings.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.21 Enterprise Risk Report.

The ultimate controlling person of an insurer required to file an enterprise risk report pursuant to T.C.A. § 56-11-105(l) shall furnish the required information on Form F, hereby made a part of this Chapter.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.22 Nonrefundable Fee for Review of Form A Filings and Filings for Mergers Between Stock Insurance Companies.

- (1) Pursuant to T.C.A. § 56-10-104(a)(5), whenever stock insurance companies submit a proposed plan of merger pursuant to T.C.A. § 56-10-104, such proposed plan of merger shall be accompanied by a nonrefundable fee in the amount of Six Hundred, Seventy-Five Dollars (\$675.00).
- (2) Pursuant to 56-11-103(b)(12) and this rule, whenever an insurance company files a Form A, the insurance company shall submit with the Form A filing a nonrefundable fee of Six Hundred, Seventy-Five Dollars (\$675.00)

Authority: T.C.A. §§ 56-2-301, 56-10-104, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

0780-01-67-.23 Severability Clause.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, such determination shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to that end the provisions of this Chapter are severable.

Authority: T.C.A. §§ 56-2-301, 56-11-101 through 56-11-119 and Acts 2014, Ch. 583.

FORM A
STATEMENT REGARDING THE
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC INSURER

Name of Domestic Insurer

BY

Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

(State of domicile of insurer being acquired)

Dated: _____, 20____

Name, Title, address and telephone number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

ITEM 1. METHOD OF ACQUISITION

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

- (a) State the name and address of the applicant seeking to acquire control over the insurer.
- (b) If the applicant is not an individual, state the nature of its business operations for the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.
- (c) Furnish a chart or listing clearly presenting the identities of the interrelationships among the applicant and all affiliates of the applicant. Indicate in such chart or listing the percentage of voting securities of each such person which is owned or controlled by the applicant or by any other such person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of such control. As to each person specified in such chart or listing indicate the type of organization (e.g. corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

On the biographical affidavit, include a third party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of 10% or more of the voting securities of the applicant if the applicant is not an individual.

- (a) Name and business address.
- (b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which such employment is carried on.
- (c) Material occupations, positions, offices or employment during the last 5 years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each such occupation, position, office or employment was carried on; if any such occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate such fact, the current status of such licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith.
- (d) Whether or not such person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last 10 years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

- (a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.
- (b) Explain the criteria used in determining the nature and amount of such consideration.
- (c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he must specifically request that the identity be kept confidential.

ITEM 5. FUTURE PLANS OF INSURER

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom the contracts, arrangements or understandings have been entered into.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement. Include in the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any shares so purchased are hypothecated.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the 12 calendar months preceding the filing of this statement.

ITEM 11. AGREEMENTS WITH BROKER-DEALERS

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements, exhibits, and three-year financial projections of the insurer(s) shall be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.
- (b) The financial statements shall include the annual financial statements of the persons identified in Item 2(c) for the preceding 5 fiscal years (or for such lesser period as such applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of such person's last fiscal year, if the information is available. The statements may be prepared on either an individual basis, or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant shall be accompanied by the certificate of an independent public accountant to the effect that such statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the Annual Statement of the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of

insurance or other accounting principles prescribed or permitted under the law and regulations of the state.

- (c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or Rules 0780-01-67-.04 and 0780-01-67-.06.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen (15) days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of Tenn. Code Ann. § 56-11-103 _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20_____.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

FORM B

INSURANCE HOLDING COMPANY SYSTEM ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of _____

By

Name of Registrant

On Behalf of Following Insurance Companies

Name Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY AND CONTROL OF REGISTRANT

Furnish the exact name of each insurer registering or being registered (hereinafter called "the Registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

ITEM 2. ORGANIZATIONAL CHART

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. The chart or listing should show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of control. As to each person specified in the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

ITEM 3. THE ULTIMATE CONTROLLING PERSON

As to the ultimate controlling person in the insurance holding company system furnish the following information:

(a) Name;

- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.;
- (e) The principal business of the person;
- (f) The name and address of any person who holds or owns 10% or more of any class of voting security, the class of such security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned; and
- (g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

ITEM 4. BIOGRAPHICAL INFORMATION

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes other than minor traffic violations.

ITEM 5. TRANSACTIONS AND AGREEMENTS

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the Registrant or of the Registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the Registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the registrant's stock and/or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of T.C.A. § 56-11-105.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of 1% or less of the registrant's admitted assets as of the 31st day of December next preceding shall not be deemed material.

The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include at least the following: the nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to the transaction, and relationship of the affiliated parties to the registrant.

ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any such person is or was the subject; give the names of the parties and the court or agency in which the litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS

- (a) Financial statements and exhibits should be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.
- (b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements shall include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information shall be filed for any subsequent period to the extent such information is available. Such financial statements may be prepared on either an individual basis; or, unless the Commissioner otherwise requires, on a consolidated basis if consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, such financial statement shall be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the Commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements shall be deemed to be an appropriate form and format.

Unless the Commissioner otherwise permits, the annual financial statements shall be accompanied by the certificate of an independent public accountant to the effect that the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles

or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the Annual Statement of the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review shall be conducted in accordance with standards for review of personal financial statements published in the *Personal Financial Statements Guide* by the American Institute of Certified Public Accountants. Personal financial statements shall be accompanied by the independent public accountant's Standard Review Report stating that the accountant is not aware of any material modifications that should be made to the financial statements in order for the statements to be in conformity with generally accepted accounting principles.

- (c) Exhibits shall include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or Rules 0780-01-67-.04 and 0780-01-67-.06.

ITEM 9. FORM C REQUIRED

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

ITEM 10. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of T.C.A. § 56-11-105, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 _____.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20_____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature)_____

(Type or print name beneath)_____

FORM C

SUMMARY OF CHANGES TO REGISTRATION STATEMENT

Filed with the Insurance Department of the State of _____

By

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description shall be in a manner as to permit the proper evaluation thereof by the Commissioner, and shall include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where such changes are ones which result in ownership or holdings of 10% or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where an individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of such change shall be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer shall furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

Pursuant to the requirements of T.C.A. § 56-11-105, Registrant has caused this annual registration statement to be duly signed on its behalf of the City of _____ and State of _____ on the _____ day of _____, 20 ____.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated _____, 20____, for and on behalf of _____ (Name of Applicant); that (s)he is the _____ (Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

FORM D

PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of _____

By

Name of Registrant

On Behalf of Following Insurance Companies

Name

Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. IDENTITY OF PARTIES TO TRANSACTION

Furnish the following information for each of the parties to the transaction:

- (a) Name;
- (b) Home office address;
- (c) Principal executive office address;
- (d) The organizational structure, i.e. corporation, partnership, individual, trust, etc.;
- (e) A description of the nature of the parties' business operations;
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties;

- (g) Where the transaction is with a non-affiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

ITEM 2. DESCRIPTION OF THE TRANSACTION

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under T.C.A. § 56-11-106(a)(2)(A)-(E);
- (b) A statement of the nature of the transaction;
- (c) A statement of how the transaction meets the 'fair and reasonable' standard of T.C.A. § 56-11-106(a)(1)(A); and
- (d) The proposed effective date of the transaction.

ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES OR INVESTMENTS

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under such loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan or extension of credit is less than (a) in the case of non-life insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders, or with respect to health maintenance organizations, net worth, or (b) in the case of life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

No notice need be given unless the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the guarantee exceeds the lesser of .5% of the insurer's or health maintenance organization's admitted assets or 10% of surplus as regards policyholders, or with respect to health maintenance organizations, net worth, as of the 31st day of December next preceding. However, if the guarantee is not quantifiable as to amount, notice shall be required.

ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NON-AFFILIATE

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit,

and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets of or make investments in any affiliate. Describe the amount and source of funds, securities, property or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of non-life insurers, the lesser of 3% of the insurer's or health maintenance organization's admitted assets or 25% of surplus as regards policyholders, or with respect to health maintenance organizations, net worth, or, with respect to life insurers, 3% of the insurer's admitted assets, each as of the 31st day of December next preceding.

ITEM 5. REINSURANCE

If the transaction is a reinsurance agreement or modification thereto, as described by T.C.A. § 56-11-106(a)(2)(C)(ii), or a reinsurance pooling agreement or modification thereto as described by T.C.A. § 56-11-106(a)(2)(C)(i), furnish a description of the known and/or estimated amount of liability to be ceded and/or assumed in each calendar year, the period of time during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and non-affiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than 5% of the insurer's surplus as regards policyholders, or, with respect to health maintenance organizations, net worth, as of the 31st day of December next preceding. Notice shall be given for all reinsurance pooling agreements including modifications thereto.

ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS AND COST SHARING ARRANGEMENTS

For management and service agreements, furnish:

- (a) A brief description of the managerial responsibilities, or services to be performed;
- (b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

- (a) A brief description of the purpose of the agreement;
- (b) A description of the period of time during which the agreement is to be in effect;
- (c) A brief description of each party's expenses or costs covered by the agreement;
- (d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;
- (e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;
- (f) A statement regarding the cost allocation methods that specifies whether proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

- (g) A statement regarding compliance with the *NAIC Accounting Practices and Procedure Manual* regarding expense allocation.

ITEM 7. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

Pursuant to the requirements of T.C.A. § 56-11-106, _____ has caused this application to be duly signed on its behalf in the City of _____ and State of _____ on the _____ day of _____, 20 ____.

(SEAL) _____
Name of Applicant

BY _____
(Name) (Title)

Attest:

(Signature of Officer)

(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated _____, 20____, for and on behalf of _____(Name of Applicant); that (s)he is the _____(Title of Officer) of such company and that (s)he is authorized to execute and file such instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) _____

(Type or print name beneath) _____

FORM E

**PRE-ACQUISITION NOTIFICATION FORM
REGARDING THE POTENTIAL COMPETITIVE IMPACT
OF A PROPOSED MERGER OR ACQUISITION BY A
NON-DOMICILIARY INSURER DOING BUSINESS IN THIS
STATE OR BY A DOMESTIC INSURER**

Name of Applicant

Name of Other Person
Involved in Merger or
Acquisition

Filed with the Insurance Department of

Dated: _____, 20 _____

Name, title, address and telephone number of person completing this statement:

ITEM 1. NAME AND ADDRESS

State the names and addresses of the persons who hereby provide notice of their involvement in a pending acquisition or change in corporate control.

ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES

State the names and addresses of the persons affiliated with those listed in Item 1. Describe their affiliations.

ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION

State the nature and purpose of the proposed merger or acquisition.

ITEM 4. NATURE OF BUSINESS

State the nature of the business performed by each of the persons identified in response to Item 1 and Item 2.

ITEM 5. MARKET AND MARKET SHARE

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of such data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of the state as stated in T.C.A. § 56-11-104(d). If the proposed acquisition or merger would violate competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in the state.

For purposes of this question, market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

FORM F

ENTERPRISE RISK REPORT

Filed with the Insurance Department of the State of _____

By

Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Name

Address

Date: _____, 20____

Name, Title, Address and telephone number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

ITEM 1. ENTERPRISE RISK

The Registrant/Applicant, to the best of its knowledge and belief, shall provide information regarding the following areas that could produce enterprise risk as defined in T.C.A. § 56-11-101(b)(4), provided such information is not disclosed in the Insurance Holding Company System Annual Registration Statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;
- Acquisition or disposal of insurance entities and reallocating of existing financial or insurance entities within the insurance holding company system;
- Any changes of shareholders of the insurance holding company system exceeding ten percent (10%) or more of voting securities;
- Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;
- Business plan of the insurance holding company system and summarized strategies for next 12 months;

- Identification of material concerns of the insurance holding company system raised by supervisory college, if any, in last year;
- Identification of insurance holding company system capital resources and material distribution patterns;
- Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);
- Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should such guarantees be called upon; and
- Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The Registrant/Applicant may attach the appropriate form most recently filed with the U.S. Securities and Exchange Commission, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the form provides responsive information. If the Registrant/Applicant is not domiciled in the U.S., it may attach its most recent public audited financial statement filed in its country of domicile, provided the Registrant/Applicant includes specific references to those areas listed in Item 1 for which the financial statement provides responsive information.

ITEM 2: OBLIGATION TO REPORT.

If the Registrant/Applicant has not disclosed any information pursuant to Item 1, the Registrant/Applicant shall include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure pursuant to Item 1.

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

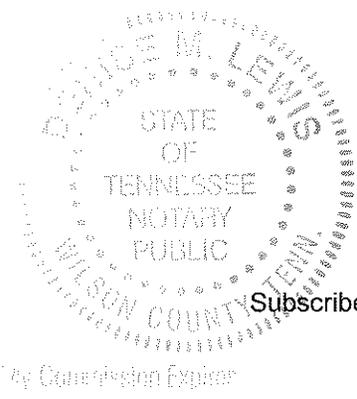
Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Commerce and Insurance on 11/24/2015 (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: August 18, 2015

Rulemaking Hearing(s) Conducted on: (add more dates). October 13, 2015



Date: November 24, 2015

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 11/24/15

Notary Public Signature: Orange M. Lewis

My commission expires on: 2/15/16

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.

RECEIVED
 2015 DEC -2 PM 4:19
 SECRETARY OF STATE
 SECURITIES DIVISION

Department of State Use Only

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

12-2-15
 Date

Filed with the Department of State on: 12/2/15

Effective on: 3/1/16

Tre Hargett
 Tre Hargett
 Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Finance and Administration, Bureau of TennCare

SUBJECT: TennCare Standard; Covered Services, Exclusions, and Member Abuse or Overutilization of the Pharmacy Program

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 71-5-105 and 71-5-109

EFFECTIVE DATES: March 28, 2016, through June 30, 2016

FISCAL IMPACT: Decrease state expenditures by \$2,984,000

STAFF RULE ABSTRACT: The rulemaking hearing rule makes permanent an emergency rule, which expires on March 28, 2016, to reduce expenditures by limiting coverage for buprenorphine-containing products for treatment of opiate addiction and by limiting payments for additional urine drug test codes.

Public Hearing Comments

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

Comment: Commenter with the American Society of Addiction Medicine (ASAM) and the Tennessee Society of Addiction Medicine (TnSAM) stated in a letter that they had great concern with the proposed changes in the TennCare Medicaid and TennCare Standard rules that would limit buprenorphine coverage to 732 days in a patient's lifetime. They believe that limiting buprenorphine coverage through treatment length limits does not allow physicians to work with their patient to determine the best individual treatment. They urged TennCare not to adopt the rule, as it interferes with the physician-patient relationship and does not treat addiction as the chronic, lifelong condition that it is.

Response: Thank you for your comments regarding proposed changes to TennCare Rule Chapters 1200-13-13 and 1200-13-14 related to limitations on certain TennCare-covered services. TennCare has considered your comments and those offered by other stakeholders, but believe that the proposed changes are appropriate and necessary at this time.

Comment: A commenter wrote a personal testimony describing what Subutex had done for her in her life and that she was scared of coming off of it.

Response: Thank you for your comments at the rulemaking hearing that took place on October 28, 2015. TennCare has considered your comments and those offered by other stakeholders, but believe that the proposed changes are appropriate and necessary at this time.

Comment: There were ten commenters that offered verbal comments at the hearing. There were also several written comments without name and address that was left at the hearing. Their main concern was with the milligram dosage limit and the 732 day lifetime limit on therapy treatment.

Response: TennCare considered the comments of each and every commenter and those offered by other stakeholders, but we believe that the proposed changes in the rules are appropriate and necessary at this time.

Regulatory Flexibility Addendum

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

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 12-23-15
Rule ID(s): 6094
File Date: 12/29/15
Effective Date: 3/28/16

Rulemaking Hearing Rule(s) Filing Form

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

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

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

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.04	Covered Services
1200-13-14-.10	Exclusions
1200-13-14-.13	Member Abuse or Overutilization of the TennCare Pharmacy Program

RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

CHAPTER 1200-13-14
TENNCARE STANDARD

1200-13-14-.04 COVERED SERVICES.

(1) Benefits covered under the managed care program

(c) Pharmacy

TennCare is permitted under the terms and conditions of the demonstration project approved by the federal government to restrict coverage of prescription and non-prescription drugs to a TennCare-approved list of drugs known as a drug formulary. TennCare must make this list of covered drugs available to the public. Through the use of a formulary, the following drugs or classes of drugs, or their medical uses, shall be excluded from coverage or otherwise restricted by TennCare as described in Section 1927 of the Social Security Act [42 U.S.C. §1396r-8]:

9. ~~Buprenorphine and buprenorphine/naloxone products and sedative hypnotics for opiate addiction treatment~~ for persons aged 21 and older are restricted as follows ~~to the quantity limits specified below:~~

(i) ~~Generic buprenorphine, Subtex (buprenorphine), and Suboxone (buprenorphine/naloxone) products~~ Dosage shall not exceed sixteen milligrams (16 mg) per day for a period of up to six (6) months from the initiation of therapy. For enrollees who are pregnant while receiving this dosage, the six-month period does not begin until the enrollee is no longer pregnant. At the end of either six month period, the covered dosage amount shall not exceed eight milligrams (8 mg) per day.

~~(ii) Therapy shall be limited to a total lifetime period of coverage not to exceed a total of 732 therapy days, which do not have to be consecutive. For enrollees who are pregnant on day 732 of treatment, the treatment may continue until the enrollee is no longer pregnant.~~

~~(iii) Effective October 1, 2015, enrollees who have exceeded 549 days of treatment will receive coverage for an additional 183 days of therapy prior to exhaustion of their lifetime coverage limits.~~

~~(ii)10. Sedative hypnotic medications for persons aged 21 and older shall not exceed fourteen (14) pills per month for sedative hypnotic formulations in pill form such as Ambien and Lunesta, one hundred forty milliliters (140 ml) per month of chloral hydrate, or one (1) bottle every sixty (60) days of Zolpimist.~~

~~4011. Allergy medications.~~

1200-13-14-.10 EXCLUSIONS.

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2)

herein. Some of these services may be covered under the CHOICES program or outside TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate TennCare Home and Community Based Services rule.

- (a) Services, products, and supplies that are specifically excluded from coverage except as medically necessary for children under the age of 21.

17. Certain pharmacy items as follows:

- (vii) ~~Generic buprenorphine-containing products used for treatment of opiate addiction, Subtex (buprenorphine), and Suboxone (buprenorphine/naloxone) in dosage amounts that exceeded~~ the covered dosage amounts listed below:

- (I) ~~Dosage of sixteen~~ Dosage of ~~Sixteen~~ milligrams (16 mg) per day for a period of up to six (6) months ~~(183 days)~~ from the initiation of therapy or from the conclusion of pregnancy, if the enrollee is pregnant during this initial maximum dosage therapy; ~~or~~

- (II) ~~Dosage of Eight~~ Dosage of milligrams (8 mg) per day after the sixth (6th) month ~~(183rd day)~~ of therapy;

- (III) Total lifetime coverage of 732 therapy days (24 months), which do not have to be consecutive, but if the enrollee is pregnant on day 732 of therapy, treatment may continue until the conclusion of pregnancy; and

- (IV) Effective October 1, 2015, enrollees who have exceeded 549 days (18 months) of therapy will receive coverage for an additional 183 days of therapy prior to exhaustion of their lifetime coverage limits.

- (b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

85. Toy equipment such as: Flash switches (for toys)

86. ~~Flash switches (for toys)~~

~~8889.~~ Urine drug screens in excess of twelve (12), four (4) confirmation urine screens and two (2) specific assay tests during a calendar year.

1200-13-14-13 MEMBER ABUSE OR OVERUTILIZATION OF THE TENNCARE PHARMACY PROGRAM.

- (2) The TennCare pharmacy lock-in program shall be administered by the Bureau. Monitoring of enrollee activities listed in Paragraph (1) shall be conducted by the Bureau, the MCCs, including the PBM, and the TennCare Office of Inspector General (OIG). When an enrollee has been identified as having participated in any abuse or overutilization activities, including but not limited to the activities listed in Paragraph (1), the enrollee's name shall be referred to the Bureau as appropriate or potentially appropriate for the lock-in program as follows:

- (a) Appropriate for the lock-in program:

- 1. Any enrollee who has been identified by the OIG as having been convicted of TennCare fraud or a drug-related offense.

2. Any enrollee who has used buprenorphine-containing products/naloxone (Suboxone®) or buprenorphine (Subutex®) for office based opioid addiction treatment within the previous six (6) months.
- (6) Review of lock-in status. The Bureau or the MCC shall periodically review the claims information of members on lock-in status to determine the need for continued lock-in or escalation to prior approval status.
- (a) Lock-in status will be discontinued if the Bureau determines that a member has met all of the following criteria for at least six (6) consecutive months:
 1. Has not paid cash for any controlled substance prescriptions covered by TennCare.
 2. Has not received any narcotic medications while on buprenorphine-containing products or buprenorphine/naloxone for addiction.
- (7) Prior approval status..
- (b) Lock-in status shall be escalated to prior approval status if a member on lock-in status meets three (3) of the following criteria over a 90 day period:
 1. Has paid cash for three (3) or more controlled substance prescriptions covered by TennCare.
 2. Has filled prescriptions for controlled substances at two (2) or more pharmacies.
 3. Has received controlled substance prescriptions from two (2) or more prescribers.
 4. Has received a narcotic prescription while receiving buprenorphine-containing products or buprenorphine/naloxone for addiction.

GW10215293

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 11/20/2015 (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: 09/09/15

Rulemaking Hearing(s) Conducted on: (add more dates). 10/28/15

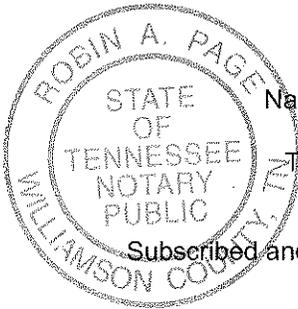
Date: 11/20/2015

Signature: [Handwritten Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 11/20/2015

Notary Public Signature: [Handwritten Signature]

My commission expires on: 10/18/2016

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

[Handwritten Signature]
Herbert H. Slatery III
Attorney General and Reporter

12/18/2015
Date

Department of State Use Only

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SECRETARY OF STATE
PUBLICATIONS

Filed with the Department of State on: 12/29/15

Effective on: 3/28/15

[Handwritten Signature]
Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Finance and Administration, Bureau of TennCare

SUBJECT: TennCare Medicaid; Covered Services, Exclusions, and Member Abuse or Overutilization of the Pharmacy Program

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 71-5-105 and 71-5-109

EFFECTIVE DATES: March 28, 2016, through June 30, 2016

FISCAL IMPACT: Decrease state expenditures by \$2,984,000

STAFF RULE ABSTRACT: The rulemaking hearing rule makes permanent an emergency rule, which expires on March 28, 2016, to reduce expenditures by limiting coverage for buprenorphine-containing products for treatment of opiate addiction and by limiting payments for additional urine drug test codes.

Public Hearing Comments

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

Comment: Commenter with the American Society of Addiction Medicine (ASAM) and the Tennessee Society of Addiction Medicine (TnSAM) stated in a letter that they had great concern with the proposed changes in the TennCare Medicaid and TennCare Standard rules that would limit buprenorphine coverage to 732 days in a patient's lifetime. They believe that limiting buprenorphine coverage through treatment length limits does not allow physicians to work with their patient to determine the best individual treatment. They urged TennCare not to adopt the rule, as it interferes with the physician-patient relationship and does not treat addiction as the chronic, lifelong condition that it is.

Response: Thank you for your comments regarding proposed changes to TennCare Rule Chapters 1200-13-13 and 1200-13-14 related to limitations on certain TennCare-covered services. TennCare has considered your comments and those offered by other stakeholders, but believe that the proposed changes are appropriate and necessary at this time.

Comment: A commenter wrote a personal testimony describing what Subutex had done for her in her life and that she was scared of coming off of it.

Response: Thank you for your comments at the rulemaking hearing that took place on October 28, 2015. TennCare has considered your comments and those offered by other stakeholders, but believe that the proposed changes are appropriate and necessary at this time.

Comment: There were ten commenters that offered verbal comments at the hearing. There were also several written comments without name and address that was left at the hearing. Their main concern was with the milligram dosage limit and the 732 day lifetime limit on therapy treatment.

Response: TennCare considered the comments of each and every commenter and those offered by other stakeholders, but we believe that the proposed changes in the rules are appropriate and necessary at this time.

Regulatory Flexibility Addendum

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

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

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For Department of State Use Only

Sequence Number: 12-24-15
 Rule ID(s): 6095
 File Date: 12/29/15
 Effective Date: 3/28/16

Rulemaking Hearing Rule(s) Filing Form

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

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

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

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.04	Covered Services
1200-13-13-.10	Exclusions
1200-13-13-.13	Member Abuse or Overutilization of the TennCare Pharmacy Program

RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE

CHAPTER 1200-13-13
TENNCARE MEDICAID

1200-13-13-.04 COVERED SERVICES.

(1) Benefits covered under the managed care program

(c) Pharmacy

TennCare is permitted under the terms and conditions of the demonstration project approved by the federal government to restrict coverage of prescription and non-prescription drugs to a TennCare-approved list of drugs known as a drug formulary. TennCare must make this list of covered drugs available to the public. Through the use of a formulary, the following drugs or classes of drugs, or their medical uses, shall be excluded from coverage or otherwise restricted by TennCare as described in Section 1927 of the Social Security Act [42 U.S.C. §1396r-8]:

9. ~~Buprenorphine and buprenorphine/naloxone products and sedative hypnotics for opiate addiction treatment~~ for persons aged 21 and older are restricted as follows to the quantity limits specified below:

(i) ~~Generic buprenorphine, Subtex (buprenorphine), and Suboxone (buprenorphine/naloxone) products~~ Dosage shall not exceed sixteen milligrams (16 mg) per day for a period of up to six (6) months from the initiation of therapy. For enrollees who are pregnant while receiving this dosage, the six-month period does not begin until the enrollee is no longer pregnant. At the end of either six month period, the covered dosage amount shall not exceed eight milligrams (8 mg) per day.

~~(ii) Therapy shall be limited to a total lifetime period of coverage not to exceed a total of 732 therapy days, which do not have to be consecutive. For enrollees who are pregnant on day 732 of treatment, the treatment may continue until the enrollee is no longer pregnant.~~

~~(iii) Effective October 1, 2015, enrollees who have exceeded 549 days of treatment will receive coverage for an additional 183 days of therapy prior to exhaustion of their lifetime coverage limits.~~

~~(ii)10. Sedative hypnotic medications for persons aged 21 and older shall not exceed fourteen (14) pills per month for sedative hypnotic formulations in pill form such as Ambien and Lunesta, one hundred forty milliliters (140 ml) per month of chloral hydrate, or one (1) bottle every sixty (60) days of Zolpimist.~~

~~4011. Allergy medications.~~

1200-13-13-.10 EXCLUSIONS.

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2)

herein. Some of these services may be covered under the CHOICES program or outside TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate TennCare Home and Community Based Services rule.

- (a) Services, products, and supplies that are specifically excluded from coverage except as medically necessary for children under the age of 21.

17. Certain pharmacy items as follows:

- (vii) ~~Generic~~ Buprenorphine-containing products used for treatment of opiate addiction, Subtex (buprenorphine), and Suboxone (buprenorphine/naloxone) in dosage amounts that exceeded of the covered dosage amounts listed below:

(I) Dosage of ~~S~~sixteen milligrams (16 mg) per day for a period of up to six (6) months (183 days) from the initiation of therapy or from the conclusion of pregnancy, if the enrollee is pregnant during this initial maximum dosage therapy; or

(II) Dosage of ~~E~~eight milligrams (8 mg) per day after the sixth (6th) month (183rd day) of therapy;

(III) Total lifetime coverage of 732 therapy days (24 months), which do not have to be consecutive, but if the enrollee is pregnant on day 732 of therapy, treatment may continue until the conclusion of pregnancy; and

(IV) Effective October 1, 2015, enrollees who have exceeded 549 days (18 months) of therapy will receive coverage for an additional 183 days of therapy prior to exhaustion of their lifetime coverage limits.

- (b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

88. Urine drug screens in excess of twelve (12), four (4) confirmation urine screens and two (2) specific assay tests during a calendar year.

1200-13-13-13 MEMBER ABUSE OR OVERUTILIZATION OF THE TENNCARE PHARMACY PROGRAM.

(2) The TennCare pharmacy lock-in program shall be administered by the Bureau. Monitoring of enrollee activities listed in Paragraph (1) shall be conducted by the Bureau, the MCCs, including the PBM, and the TennCare Office of Inspector General (OIG). When an enrollee has been identified as having participated in any abuse or overutilization activities, including but not limited to the activities listed in Paragraph (1), the enrollee's name shall be referred to the Bureau as appropriate or potentially appropriate for the lock-in program as follows:

(a) Appropriate for the lock-in program:

1. Any enrollee who has been identified by the OIG as having been convicted of TennCare fraud or a drug-related offense.
2. Any enrollee who has used buprenorphine-containing products /naloxone (Suboxone[®]) or buprenorphine (Subutex[®]) for office based opioid addiction treatment within the previous six (6) months.

- (6) Review of lock-in status. The Bureau or the MCC shall periodically review the claims information of members on lock-in status to determine the need for continued lock-in or escalation to prior approval status.
- (a) Lock-in status will be discontinued if the Bureau determines that a member has met all of the following criteria for at least six (6) consecutive months:
1. Has not paid cash for any controlled substance prescriptions covered by TennCare.
 2. Has not received any narcotic medications while on buprenorphine-containing products or buprenorphine/naloxone for addiction.
- (7) Prior approval status.
- (b) Lock-in status shall be escalated to prior approval status if a member on lock-in status meets three (3) of the following criteria over a 90 day period:
1. Has paid cash for three (3) or more controlled substance prescriptions covered by TennCare.
 2. Has filled prescriptions for controlled substances at two (2) or more pharmacies.
 3. Has received controlled substance prescriptions from two (2) or more prescribers.
 4. Has received a narcotic prescription while receiving buprenorphine-containing products or buprenorphine/naloxone for addiction.

GW10115293

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 11/20/2015 (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: 09/09/15

Rulemaking Hearing(s) Conducted on: (add more dates). 10/28/15

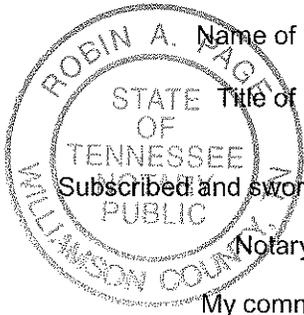
Date: 11/20/2015

Signature: [Signature]

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: 11/20/2015

Notary Public Signature: [Signature]

My commission expires on: 10/18/16

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.

[Signature]
Herbert H. Slatery III
Attorney General and Reporter

12/18/2015
Date

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PUBLICATIONS

Filed with the Department of State on: 12/29/15

Effective on: 3/28/16

[Signature]

Tre Hargett
Secretary of State

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Finance and Administration, Bureau of TennCare

SUBJECT: TennCare Standard; Exclusions

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 71-5-105 and 71-5-109

EFFECTIVE DATES: March 29, 2016, through June 30, 2016

FISCAL IMPACT: Minimal increase in state expenditures

STAFF RULE ABSTRACT: The rulemaking hearing rule allows TennCare coverage of medically necessary floor standers for children less than 21 years of age.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

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

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

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Sequence Number: 12-25-15
 Rule ID(s): 6096
 File Date: 12/30/15
 Effective Date: 3/29/16

Rulemaking Hearing Rule(s) Filing Form

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

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

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

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-14	TennCare Standard
Rule Number	Rule Title
1200-13-14-.10	Exclusions

**RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE**

**CHAPTER 1200-13-14
TENNCARE STANDARD**

1200-13-14-.10 EXCLUSIONS.

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2) herein. Some of these services may be covered under the CHOICES program or outside TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate TennCare Home and Community Based Services rule.

(a) Services, products, and supplies that are specifically excluded from coverage except as medically necessary for children under the age of 21.

1. Audiological therapy or training

2. Augmentative communication devices

3. Beds and bedding equipment as follows:

(i) Powered air flotation beds, air fluidized beds (including Clinitron beds), water pressure mattress, or gel mattress

For persons age 21 and older: Not covered unless a member has both severely impaired mobility (i.e., unable to make independent changes in body position to alleviate pain or pressure) and any stage pressure ulcer on the trunk or pelvis combined with at least one of the following: impaired nutritional status, fecal or urinary incontinence, altered sensory perception, or compromised circulatory status.

(ii) Bead beds, or similar devices

(iii) Bed boards

(iv) Bedding and bed casings

(v) Ortho-prone beds

(vi) Oscillating beds

(vii) Springbase beds

(xiii) Vail beds, or similar bed

4. Biofeedback

5. Chiropractor's services

6. Cushions, pads, and mattresses as follows:

- (i) Aquamatic K Pads
- (ii) Elbow protectors
- (iii) Heat and massage foam cushion pads
- (iv) Heating pads
- (v) Heel protectors
- (vi) Lamb's wool pads
- (vii) Steam packs

7. Diagnostic tests conducted solely for the purpose of evaluating the need for a service which is excluded from coverage under these rules.

8. Ear plugs

9. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own

109. Food supplements and substitutes including formulas

For persons 21 years of age and older: Not covered, except that Parenteral Nutrition formulas, Enteral Nutrition formulas for tube feedings and phenylalanine-free formulas (not foods) used to treat PKU, as required by TCA 56-7-2505, are covered for adults. In addition, oral liquid nutrition may be covered when medically necessary for adults with swallowing or breathing disorders who are severely underweight (BMI < 15 kg/m²) and physically incapable of otherwise consuming a sufficient intake of food to meet basic nutritional requirements.

1140. Hearing services, including the prescribing, fitting, or changing of hearing aids

1244. Humidifiers (central or room) and dehumidifiers

ETC.

(b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

~~29. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own~~

~~3029.~~ Food and food products (distinct from food supplements or substitutes, as defined in rule 1200-13-13-.10(3)(a)12. including but not limited to specialty food items for use in diets such as:

- (i) Low-phenylalanine or phenylalanine-free
- (ii) Gluten-free

(iii) Casein-free

(iv) Ketogenic

3034. Generators and auxiliary power equipment that may be used to provide power for covered medical equipment or for any purpose

3132. Grooming services including, but not limited to:

(i) Barber services

(ii) Beauty services

(iii) Electrolysis

(iv) Hairpieces or wigs

(v) Manicures

(vi) Pedicures

3233. Hair analysis

ETC.

GW10115251redline

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/09/2015 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

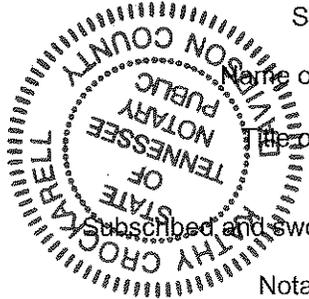
I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 10/05/15

Rulemaking Hearing(s) Conducted on: (add more dates). 11/30/15

Date: 12/9/2015

Signature: DJG



Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration

Subscribed and sworn to before me on: December 9, 2015

Notary Public Signature: Patsy Crockett

My commission expires on: January 8, 2019

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

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
12/22/2015
Date

Department of State Use Only

Filed with the Department of State on: 12/30/15

Effective on: 3/29/16

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

G.O.C. STAFF RULE ABSTRACT

AGENCY: Department of Finance and Administration, Bureau of TennCare

SUBJECT: TennCare Medicaid; Exclusions

STATUTORY AUTHORITY: Tenn. Code Ann., Sections 71-5-105 and 71-5-109

EFFECTIVE DATES: March 29, 2016, through June 30, 2016

FISCAL IMPACT: Minimal increase in state expenditures

STAFF RULE ABSTRACT: The rulemaking hearing rule allows TennCare coverage of medically necessary floor standers for children less than 21 years of age.

Public Hearing Comments

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

There were no public comments on these rules.

Regulatory Flexibility Addendum

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

The rules are not anticipated to have an effect on small businesses.

Impact on Local Governments

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

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

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Sequence Number: 12-26-15
 Rule ID(s): 6097
 File Date: 12/30/15
 Effective Date: 3/29/16

Rulemaking Hearing Rule(s) Filing Form

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

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

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

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-13-13	TennCare Medicaid
Rule Number	Rule Title
1200-13-13-.10	Exclusions

**RULES
OF
TENNESSEE DEPARTMENT OF FINANCE AND ADMINISTRATION
BUREAU OF TENNCARE**

**CHAPTER 1200-13-13
TENNCARE MEDICAID**

1200-13-13-.10 EXCLUSIONS.

(3) Specific exclusions. The following services, products, and supplies are specifically excluded from coverage under the TennCare Section 1115 waiver program unless excepted by paragraph (2) herein. Some of these services may be covered under the CHOICES program or outside TennCare under a Section 1915(c) Home and Community Based Services waiver when provided as part of an approved plan of care, in accordance with the appropriate TennCare Home and Community Based Services rule.

(a) Services, products, and supplies that are specifically excluded from coverage except as medically necessary for children under the age of 21

1. Audiological therapy or training

2. Augmentative communication devices

3. Beds and bedding equipment as follows:

(i) Powered air flotation beds, air fluidized beds (including Clinitron beds), water pressure mattress, or gel mattress

For persons age 21 and older: Not covered unless a member has both severely impaired mobility (i.e., unable to make independent changes in body position to alleviate pain or pressure) and any stage pressure ulcer on the trunk or pelvis combined with at least one of the following: impaired nutritional status, fecal or urinary incontinence, altered sensory perception, or compromised circulatory status.

(ii) Bead beds, or similar devices

(iii) Bed boards

(iv) Bedding and bed casings

(v) Ortho-prone beds

(vi) Oscillating beds

(vii) Springbase beds

(xiii) Vail beds, or similar bed

4. Biofeedback

5. Chiropractor's services

6. Cushions, pads, and mattresses as follows:

- (i) Aquamatic K Pads
- (ii) Elbow protectors
- (iii) Heat and massage foam cushion pads
- (iv) Heating pads
- (v) Heel protectors
- (vi) Lamb's wool pads
- (vii) Steam packs

7. Diagnostic tests conducted solely for the purpose of evaluating the need for a service which is excluded from coverage under these rules.

8. Ear plugs

9. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own

109. Food supplements and substitutes including formulas

For persons 21 years of age and older: Not covered, except that Parenteral Nutrition formulas, Enteral Nutrition formulas for tube feedings and phenylalanine-free formulas (not foods) used to treat PKU, as required by T.C.A. §56-7-2505, are covered for adults. In addition, oral liquid nutrition may be covered when medically necessary for adults with swallowing or breathing disorders who are severely underweight (BMI < 15 kg/m²) and physically incapable of otherwise consuming a sufficient intake of food to meet basic nutritional requirements.

1140. Hearing services, including the prescribing, fitting, or changing of hearing aids

1244. Humidifiers (central or room) and dehumidifiers

ETC.

(b) Services, products, and supplies that are specifically excluded from coverage under the TennCare program.

29. Food and food products (distinct from food supplements or substitutes, as defined in rule 1200-13-13-.10(3)(a)12. including but not limited to specialty food items for use in diets such as:

- (i) Low-phenylalanine or phenylalanine-free
- (ii) Gluten-free
- (iii) Casein-free

(iv) Ketogenic

~~30. Floor standers, meaning stationary devices not attached to a wheelchair base and not built into the operating system of a power wheelchair that are designed to hold in an upright position an Enrollee who uses a wheelchair and who has limited or no ability to stand on his own~~

3034. Generators and auxiliary power equipment that may be used to provide power for covered medical equipment or for any purpose

3132. Grooming services including, but not limited to:

- (i) Barber services
- (ii) Beauty services
- (iii) Electrolysis
- (iv) Hairpieces or wigs
- (v) Manicures
- (vi) Pedicures

3233. Hair analysis

ETC.

GW10315247redline

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Finance and Administration (board/commission/ other authority) on 12/09/2015 (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: 10/05/15

Rulemaking Hearing(s) Conducted on: (add more dates). 11/30/15

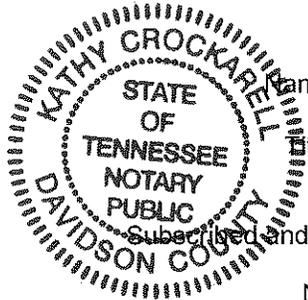
Date: 12/9/2015

Signature: D. J. Gordon

Name of Officer: Darin J. Gordon

Director, Bureau of TennCare

Title of Officer: Tennessee Department of Finance and Administration



Subscribed and sworn to before me on: December 9, 2015

Notary Public Signature: Kathy Crockarell

My commission expires on: January 8, 2019

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

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

12/22/2015 Date

Department of State Use Only

Filed with the Department of State on: 12/30/15

Effective on: 3/29/16

Tre Hargett
Tre Hargett
Secretary of State

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