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Sequence Number: 02-20-13
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File Date: 2/13/13

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. §4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Water Resources
Contact Person:	Bob O'Dette
Address:	6th Floor, L & C Annex 401 Church Street Nashville, Tennessee 37243-1531
Phone:	(615) 253-5319
Email:	Robert.Odette@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	12th Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Beverly.Evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	17th Floor Conference Room A, L & C Tower		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	04/09/13		
Hearing Time:	9:00 a.m.	_X_CST/CDT ___EST/EDT	

Additional Hearing Information:

This rulemaking is intended to move the rules from Chapter 1200-04-02 to Chapter 0400-40-02 and to edit the document to correct typos and incorrect references.

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Tennessee Department of Environment and Conservation, Water Resources Division; Attention: Mr. Bob O'Dette, 6th Floor, L & C Annex; 401 Church Street; Nashville, Tennessee 37243; telephone 615-532-0445 or fax 615-532-0199. However, such written comments must be received by 4:30 PM CDT, April 9, 2013, in order to assure consideration. For further information, please contact Mr. Bob O'Dette at the above address or telephone number or by e-mail at Robert.Odette@tn.gov.

Revision Type (check all that apply):

___ Amendment
_X_ New
_X_ Repeal

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

Chapter Number	**Chapter Title**
0400-40-02	Regulations for Plans, Submittal, and Approval; Control of Construction; Control of Operation
Rule Number	**Rule Title**
0400-40-02-.01	Registered Engineer Required
0400-40-02-.02	Preliminary Discussion Concerning Project
0400-40-02-.03	Engineering Report and Preliminary Plans
0400-40-02-.04	Site Approval
0400-40-02-.05	Final Plans, Contract Drawings and Specifications
0400-40-02-.06	Revision of Plans
0400-40-02-.07	Permit for Construction, Installation or Modification of any Establishment, Treatment Works or Part thereof or New Outlet
0400-40-02-.08	Work in Conformity with Plans and Specifications
0400-40-02-.09	Commencement of Operation of Completed Facility
0400-40-02-.10	Records and Reports
0400-40-02-.11	Samples
0400-40-02-.12	Reserved

Chapter Number	**Chapter Title**
1200-04-02	Regulations for Plans, Submittal, and Approval; Control of Construction; Control of Operation
Rule Number	**Rule Title**
1200-04-02-.01	Registered Engineer Required
1200-04-02-.02	Preliminary Discussion Concerning Project
1200-04-02-.03	Engineering Report and Preliminary Plans
1200-04-02-.04	Site Approval
1200-04-02-.05	Final Plans, Contract Drawings and Specifications
1200-04-02-.06	Revision of Plans
1200-04-02-.07	Permit for Construction, Installation or Modification of any Establishment, Treatment Works or Part thereof or New Outlet
1200-04-02-.08	Work in Conformity with Plans and Specifications
1200-04-02-.09	Commencement of Operation of Completed Facility
1200-04-02-.10	Records and Reports
1200-04-02-.11	Samples
1200-04-02-.12	Supervision of Operation

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

Repeal

Chapter 1200-04-02
Regulations for Plans, Submittal, and Approval; Control of Construction; Control of Operation

Chapter 1200-04-02 Regulations for Plans, Submittal, and Approval; Control of Construction; Control of Operation is repealed.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

New Rules

Chapter 0400-40-02
Regulations for Plans, Submittal, and Approval; Control of Construction; Control of Operation

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0400-40-02-.01 Registered Engineer Required
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0400-40-02-.11 Samples
0400-40-02-.12 Supervision of Operation

0400-40-02-.01 Registered Engineer Required

Whenever any new works or change in existing works is contemplated whereby sewage, industrial wastes, or other waste will be discharged into or adjacent to any waters of the State, a registered engineer must plan, design, and inspect the construction of any such works; also, a registered engineer must assist in the start-up of and outline correct operating procedures for any new or altered wastewater treatment or water quality control facilities. Any registered engineer herein required shall be governed by the terms of T.C.A., Title 62, Chapter 2. Any project wherein the contemplated expenditure for the completed project does not exceed $5,000, shall not require the services of a registered engineer. However, regardless of the contemplated expenditure for the completed project, all of the requirements of all other regulations in this Chapter, including the requirement that plans and specifications for such project must be submitted to and approved by a representative of the Commissioner, Tennessee Department of Environment and Conservation, shall be followed.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.02 Preliminary Discussion Concerning Project

The engineer employed by the person who is planning to carry out an activity requiring plans approval as outlined in T.C.A. § 69-3-108 should make written request for a meeting with representatives of the Commissioner for an informal discussion of the proposed project with relation to its scope and purpose. Such meeting should be held within 30 days from the receipt of the request. At this meeting, the engineer should make available to the representative of the Commissioner general information regarding the proposed point of discharge, quantity and quality of discharge, land and water use in the vicinity of the proposed discharge and general information regarding the anticipated effect which the proposed activity may have on the surrounding area. The preliminary data will be reviewed and, if sufficient to indicate scope and extent of the project, the representatives of the

Commissioner will outline general requirements for its official approval. For projects of sufficiently limited scope, the Commissioner's representatives shall be allowed to accept a single copy of adequate preliminary data in lieu of three complete sets of engineering reports and preliminary plans.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.03 Engineering Report and Preliminary Plans

(1) Unless exempted, an engineering report and preliminary plans must be prepared and presented in accordance with the requirements of the representatives of the Commissioner. The engineering report with preliminary plans must conform to the guidelines for such reports and plans as published by the Tennessee Department of Environment and Conservation. The report shall contain all required information for adequate design evaluation of the proposed waste treatment facilities and shall include such results of waste and water analyses, treatability or pilot treatment studies and investigations that may be required by the Commissioner's representatives. Three copies of the engineering report and preliminary plans shall be submitted to a representative of the Commissioner for approval 30 days prior to the date upon which action is desired. These data will be reviewed and, if sufficient to evaluate the effect of the project, the Commissioner's representative, will confirm acceptance of the preliminary information by official site approval letter and instruct the engineer to proceed with development of final plans and specifications. If final plans and specifications have not been submitted for review within one year from the date of approval of the engineering report, the approval shall be subject to re-evaluation and may be declared null and void.

(2) The engineering report and preliminary plans shall be prepared in accordance with generally accepted wastewater engineering practices. The Design Criteria published from time to time are used internally by the Division as a compilation of such practices and are available to the public. Other designs may also be used if adequately supported by calculations and actual testing data.

(3) For small domestic wastewater plants, the following restrictions apply:

(a) Activated sludge plants for design flows of 30,000 to 100,000 gallons per day will only be approved if all other treatment schemes have been demonstrated to be impractical due to non-economic considerations including but not limited to available space.

(b) No activated sludge plants will be approved for design flows less than 30,000 gallons per day.

Authority: T.C.A. § 69-3-101 et seq., 68-221-101 et seq. and 4-5-201 et seq.

0400-40-02-.04 Site Approval

(1) The proposed site for any treatment works or facilities shall be made available to representatives of the Commissioner for inspections at or prior to the time that the preliminary information and/or engineering report and preliminary plans are submitted for approval. The representative of the Commissioner may specify, in the letter of acceptance and approval of the preliminary report and preliminary plans, any specific requirements, such as effluent limitations or other restrictions which must be met by the proposed facilities. Preparation of final plans and specifications should not be commenced prior to receipt of an official site approval letter or notification to proceed.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.05 Final Plans, Contract Drawings and Specifications

(1) Construction work shall not be commenced on any new construction or major change of existing facilities or for any activity outlined in T.C.A. § 69-3-108 until complete and final plans and specifications for such activities have been submitted to and approved in writing by an authorized representative of the Commissioner. No such approval shall be construed as creating the presumption of correct operation nor as warranting by the Commissioner or by his representative that the approved facilities will reach the design goals. The final contract drawings and specifications shall conform to the conditions outlined in the guidelines for preparing such plans as published by the Tennessee Department of Environment and Conservation. Final plans should be blue line on 24 inch by 36 inch sheets with all sheets the same size.

Final plans and specifications must be submitted to a representative of the Commissioner in quadruplicate for review and comment or approval except for projects of sufficiently limited scope for which the Commissioner's representatives shall be allowed to accept final plans and specifications in duplicate. All submittals of final plans and specifications shall be made at least 30 days before action is desired. Upon approval of a submittal in quadruplicate, each complete set of plans and specifications will be stamped with the official stamp of approval; two sets will be retained by the Tennessee Department of Environment and Conservation and the other two sets will be returned to the person submitting the plans. Upon approval of a submittal in duplicate each complete set of plans and specifications will be stamped with the official stamp of approval; one set will be retained by the Tennessee Department of Environment and Conservation and the other set will be returned to the person resubmitting the plans. If construction has not commenced in accordance with approved plans and specifications within one year from the date of approval of said plans and specifications, the approval shall be subject to re-evaluation and may be declared null and void.

(2) The final plans and specifications shall be prepared in accordance with generally accepted wastewater engineering practices. The Design Criteria published from time to time are used internally by the Division as a compilation of such practices and are available to the public. Other designs may also be used if adequately supported by calculations and actual testing data.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.06 Revision of Plans

In the event that it is necessary to require any material change in the submitted plans prior to approval, the Commissioner's representative will outline the required revisions by letter to the engineer and the plans shall be revised as required for approval. Copies of the original submission will be returned to the engineer for revision if deemed necessary. Otherwise, revision may be made by revised plan sheets and addenda to the specifications. In the event that it becomes necessary to make any material change, including equipment substitutions or the provision of "equals," in the approved plans and specifications, subsequent to the date of approval and to the placing of official stamp on such approved plans and specifications, revised plans and specifications in quadruplicate, or duplicate on a project of sufficiently limited scope, together with a statement for the reason for the changes shall be submitted to the Commissioner's representative for review and comment or approval. No part of the work affected by the change or changes shall be started or completed until the Commissioner's representative has given his approval in writing; except that emergency changes which are required as construction proceeds may be made upon verbal approval from the Commissioner's representative, provided that such changes are reflected in as-built plans and specifications which are submitted in the appropriate number of copies at the conclusion of project construction.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.07 Permit for Construction, Installation or Modification of Any Establishment, Treatment Works or Part Thereof, or New Outlet

(1) In accordance with T.C.A. § 69-3-108, the submission of letters, reports, plans and specifications shall constitute an application for a permit for (a) the construction, installation or modification of any treatment works or part thereof, or any extension or addition thereto; (b) the construction or installation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the State or would otherwise alter the physical, chemical, biological or bacteriological properties of any waters of the State in any manner not already lawfully authorized; or (c) the construction of any new outlet for the discharge of any wastes into the waters of the State; whichever is applicable. The official letter issued by the Commissioner's representative approving a project for construction in accordance with submitted plans and specifications, together with the plans and specifications bearing the official "Approved for Construction" stamp of the Commissioner shall constitute a valid permit to construct, install or modify in conformance with all conditions shown and specified in the approved plans and specifications. Such permit to construct, install or modify, shall not constitute a valid permit for:

(a) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the State;

(b) The operation of any treatment works or part thereof or any extension or addition thereto;

(c) The development of a natural resource or the operation of any establishment or any extension or modification thereof or addition thereto, the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the State or would otherwise alter the physical, chemical, radiological, biological, or bacteriological properties of any waters of the State in any manner not already authorized;

(d) The increase in volume or strength of any wastes in excess of the permissive discharges specified under any existing permit; or

(e) The use of any new outlet for the discharge of any wastes into the waters of the State.

(2) A separate and distinctly different application for a permit to operate a sewerage system or a sewage treatment plant, and to discharge sewage, industrial waste or other waste from any new or existing outlet, following treatment, must be filed with the Division of Water Resources appropriate forms. No wastes, treated or untreated, shall be discharged from any source prior to completed copies of an application for a permit to discharge being filed with the Division of Water Resources, and prior to the issuance of a valid permit to discharge.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.08 Work in Conformity with Plans and Specifications

All work on new construction or changes in existing facilities and all work relating to activities as outlined in T.C.A. § 69-3-108 shall be in conformance with the officially approved plans and specifications bearing the Commissioner's official stamp of approval shall be available at or near the construction site and all construction shall be in conformance with the approved plans and specifications and approved amendments thereto. It shall be the engineer's or responsible person's responsibility to inspect or insure inspection of construction of the facilities and to assist in commencement of operation and to verify that completed facilities are in accordance with approved plans and specifications at the time of the final inspection. The Commissioner's representative may require that reports be filed during construction to indicate that work is being done in conformance with the approved plans and to obtain any additional data deemed necessary. The construction area shall be made available to the Commissioner's representative to make inspections of the work to determine that it is being done or has been done in conformity with the officially approved plans. When construction of the proposed facilities has been completed, the Commissioner or his authorized representative will conduct a final inspection of the facilities to determine that all work has been done in conformity with approved plans and specifications. In the event that approved plans and specifications have not been followed during the construction procedure, such revision and alterations of the facilities shall be required as to comply with the details of the approved plans and specifications and approved amendments thereto.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.09 Commencement of Operation of Completed Facility:

The start-up of the completed facility shall be attended by the engineer, the agent or agents designated by the responsible person to be in charge of the operation and maintenance of the works, the Commissioner's representative and any others deemed necessary. The engineer shall instruct the person or the person's agent in the proper operation and maintenance of the facilities and shall present them with a complete manual outlining the proper operation and maintenance procedures to be followed. The Commissioner's representative shall instruct the person or the person's agent in the keeping of necessary records of operation and reports of analyses for the facilities and shall provide the person or his agent with a supply of official forms upon which such records shall be kept. The engineer and the Commissioner's representative shall instruct the person or the person's agent in the required points of sampling, methods for and number of analyses, reporting techniques, reporting frequency and any other information deemed pertinent to compliance with the intent of the Water Quality Control Act of 1977. Following the final inspection when the Commissioner's representative deems the facility to be acceptable, such acceptability will be acknowledged by letter to the responsible person and such letter will transmit to the person the Commissioner's requirements for supervision over operation and maintenance of the completed facilities.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.10 Records and Reports

(1) Records of operation for sewage, industrial waste and other waste, collection and treatment or disposal works may be required by the Commissioner's representative pursuant to T.C.A. § 69-3-113, and the data shall be submitted to the Commissioner's representative on forms supplied by the Tennessee Department of Environment and Conservation or on forms approved by the Commissioner's representative for such use.

(2) Reports may be required weekly, monthly, or as deemed reasonable and necessary and directed by a representative of the Commissioner. These reports will serve to ascertain the continuous and satisfactory operation of the works in such manner as to insure the protection of water quality. These reports shall be true and accurate and shall not contain false or misleading information. An authorized representative of the Commissioner shall review the submittals and shall, within 30 days of receipt of same, notify the responsible person or the responsible person's agent, in writing, of any deficiencies in operation so noted.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.11 Samples

Such samples of sewage, industrial waste, other waste and of water from receiving streams or other appropriate waters shall be submitted to the Commissioner's representative when and in such manner as directed. The samples shall serve to check upon any examination being made by the discharger and to check the effectiveness of the collection, treatment and disposal facilities in protecting the water quality.

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

0400-40-02-.12 Reserved

Authority: T.C.A. § 69-3-101 et seq. and 4-5-201 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2/12/13

Signature: Sandra K. Dudley

Name of Officer: SANDRA K. DUDLEY

Title of Officer: DIRECTOR, WATER RESOURCES

BETH B. SMITH
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 6, 2015

Subscribed and sworn to before me on: 2-12-13

Notary Public Signature: Beth B. Smith

My commission expires on: July 6, 2015

Department of State Use Only

Filed with the Department of State on: 2/13/13

Tre Hargett
Secretary of State

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