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Sequence Number: 02-31-13
Notice ID(s): 1962-1963
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 1200-05-02 to Chapter 0400-40-16, 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**
0400-40-16	Public Sewerage Systems
Rule Number	**Rule Title**
0400-40-16-.01	Definition of Terms
0400-40-16-.02	Supervision over Construction of Public Sewerage Systems
0400-40-16-.03	Supervision over Operation of Public Sewerage Systems
0400-40-16-.04	Interconnections or other Connections with Potable Water Supply
0400-40-16-.05	Investigations, Reports, and Recommendations, Standards, and Orders

Chapter Number	**Chapter Title**
1200-05-02	Public Sewerage Systems
Rule Number	**Rule Title**
1200-05-02-.01	Definition of Terms
1200-05-02-.02	Supervision over Construction of Public Sewerage Systems
1200-05-02-.03	Supervision over Operation of Public Sewerage Systems
1200-05-02-.04	Interconnections or other Connections with Potable Water Supply
1200-05-02-.05	Investigations, Reports, and Recommendations, Standards, and Orders

(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 1200-05-02
Public Sewerage Systems

Chapter 1200-05-02 Public Sewerage Systems is repealed.

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

New Rules

Chapter 0400-40-16
Public Sewerage Systems

Table of Contents

0400-40-16-.01 Definition of Terms
0400-40-16-.02 Supervision over Construction of Public Sewerage Systems
0400-40-16-.03 Supervision over Operation of Public Sewerage Systems
0400-40-16-.04 Interconnections or other Connections with Potable Water Supply
0400-40-16-.05 Investigations, Reports, and Recommendations, Standards, and Orders

0400-40-16-.01 Definition of Terms.

(1) Public Sewerage System. The conduits, sewers, and all devices and appurtenances by means of which sewage is collected, pumped, treated and disposed of finally. This shall include systems owned by municipalities, utility districts, those corporately owned, state owned, and all others serving the public, including industrial wastes discharged into public systems.

(2) Sewage. All water carried wastes from residences, buildings, institutions, or industrial establishments that are connected to a public sewerage system, together with such ground, surface, or storm water as may be present.

(3) Department. The Tennessee Department of Environment and Conservation through its executive officer, the Commissioner of Environment and Conservation, or his designated representative.

(4) Person. Any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

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

0400-40-16-.02 Supervision over Construction of Public Sewerage Systems.

(1) Preliminary Informations.

Whenever any new construction or any change of an existing system is contemplated, a statement concerning the proposed construction or change together with such preliminary plans, reports, operating cost data, construction cost estimates, and any other necessary data shall be submitted to the Tennessee Department of Environment and Conservation. These data will be reviewed by the Department to determine if sufficient information has been provided for review of the project and if the proposed project meets the Department's general design standards and if additional changes will be necessary prior to preparation of the final plans and specifications. The Department's approval should be obtained in writing prior to preparation of the final plans and specifications.

(2) Sewage Samples.

Whenever any new construction or changes of an existing system involving the treatment works is contemplated representative samples of the sewage shall be properly collected and analyses are directed by the Department. These data and any other pertinent information shall be submitted to the Department.

(3) Final Plans.

Before work is commenced on any new construction or change of an existing system, final plans and specifications and cost estimates, together with such additional data as may be necessary to determine the suitability of the works, shall be submitted to the Tennessee Department of Environment and Conservation, and no part of the work shall be started until the Department has given its written approval. All such plans should be submitted at least 30 days prior to the date upon which action of the Department is desired. After construction has been completed, a set of "As Built" plans shall be submitted to the Department.

(4) Revision of Plans.

All changes in the plans and specifications requested by the Department must be made and approved by the Department prior to construction. In case it is necessary or desirable to make any additional changes in the approved plans and specifications, revised plans and specifications, together with a statement of the reasons for the changes, shall be submitted to the Tennessee Department of Environment and Conservation for review and no part of the work affected by the change shall be started until the Department has given its approval in writing.

(5) Work in Conformity with Plans and Specifications.

A copy of the approved plans and specifications shall be available at the job site at all times during construction. All work on new construction or changes of existing systems shall be done in conformity with the approved plans and specifications. The consulting or design engineer shall provide adequate inspection during construction to ascertain that all work is done in accordance with the approved plans and specifications.

The Department's representative shall have access to the project at all times during construction. If the

Department's representative observes work being done in a manner that does not conform to the approved plans and specifications, a request will be made through the engineer's representative or directly to the contractor to cease all work until the nonconformity with the approved plans and specifications has been rectified.

(6) Records of Existing Works.

Whenever there is any question concerning the suitability of existing structures, equipment or other parts of the sewerage system to perform the function for which intended, the Department may require the submission of plans or other data necessary to ascertain the details of such works in relation to their possible direct or indirect effect upon public health.

(7) Sewer Use Ordinance.

The governing body of each public sewerage system shall enact an ordinance that will state:

(a) the type materials, construction, and inspection of service lines connecting to the public sewer,

(b) the limits of the physical and chemical characteristics of the sewage that will be discharged to the system by the users, and

(c) any surcharges that will be assessed when the limits of the physical and/or chemical characteristics are violated.

A copy of the proposed ordinance must be submitted to and approved by the Department. Such ordinance must be on file with the Department prior to the placing into operation the sewerage facilities.

(8) Ownership and Operational Organization.

Prior to the approval of final plans and specifications for sewerage facilities that are not owned and operated by a municipality or public utility district, the Department must receive evidence of the ownership of the system by a satisfactory organization that will be responsible for the operation and maintenance (such organization as a corporation set up under the General Corporation Act of 1969, an organization that has a charter from the Tennessee Public Service Commission, or a title deed on FHA insured loans) of the system.

(9) Other Utilities.

No other utility lines or systems are to be placed in the same trench as sewer lines, and potable water lines should be placed a minimum horizontal distance of ten (10) feet from the sewer lines.

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

0400-40-16-.03 Supervision over Operation of Public Sewerage Systems.

(1) Records and Reports.

Daily records of the operation and maintenance of sewerage facilities, data on laboratory analyses of samples collected in accordance with the sampling program provided by the Department, and any other pertinent information shall be submitted to the Tennessee Department of Environment and Conservation on forms supplied by the Department. Reports may be required weekly, monthly, or as deemed necessary to ascertain the continuous satisfactory operation of the facilities.

(2) Samples.

Such samples of sewage or water from the receiving stream shall be submitted to the Tennessee Department of Environment and Conservation when and in such manner as may be directed from time to time.

(3) Supervision and Operation.

The supervision, operation, and maintenance of sewerage systems shall be of such character as in the opinion of the Tennessee Department of Environment and Conservation will produce satisfactory results as judged by current standards of the Department. Evidence of competency may be required if and when deemed necessary by the Commissioner to insure proper operation and maintenance of any public sewerage system.

(4) Bypassing.

There shall not be discharged any untreated sewage or inadequately treated wastes to a ditch, stream or lake except in cases where an absolute necessity exists for a short duration and the consent of the Tennessee Department of Environment and Conservation has been received in writing prior to the time of discharge.

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

0400-40-16-.04 Interconnections or other Connections with Potable Water Supply.

Interconnections.

No person shall install, permit to be installed or maintain an interconnection or other connection between any part of the sewerage system or any appurtenance and a potable water supply or a public water supply in such manner that sewage or waste may find its way into or otherwise contaminate any potable or public water supply.

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

0400-40-16-.05 Investigations, Reports, and Recommendations, Standards, and Orders.

(1) Investigations.

The Department of Environment and Conservation will make such routine or special investigations as may be considered necessary to insure proper construction, operation and maintenance of public sewerage systems and to insure compliance with these regulations. The owners or operators of public sewerage systems shall arrange to assist the Department in making such investigations and otherwise cooperate by furnishing any pertinent data. When the Department makes written recommendations concerning the sewerage facilities, the recommendations should be followed when at all possible.

(2) Reports and Recommendations.

Reports of investigations, together with recommendations regarding needed improvements or other matters relating to any public sewerage system, shall be prepared and forwarded to the official responsible for such system as often as deemed necessary by the Director of the Division.

(3) Standards.

The Department shall prepare and disseminate such information concerning public sewerage systems as it may deem necessary or desirable to insure the proper collection and disposal of sewage. It shall prepare, adopt, or utilize such standards as necessary to evaluate results of sewage disposal through any public sewerage system in Tennessee.

(4) Special Orders.

Whenever it is the judgment of the Tennessee Department of Environment and Conservation, based upon investigations, that a public sewerage system is an actual or potential menace to public health, because of faulty design, inadequacy, improper supervision, or inefficient operation, and that effective measures are not being carried out to correct these defects, the Department may issue an order for their correction, and such order or orders shall be complied with within the time limit specified in the order.

(5) Enforcement by Department.

Whenever in the judgment of the Tennessee Department of Environment and Conservation any standards, policies, general or special orders, rules, or regulations issued by it to control public sewerage systems are violated, an authorized representative of the Department may cause to be issued a warrant in the appropriate court for the violation.

Authority: T.C.A. §§ 68-221-101 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 4, 2015

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

Tre Hargett
Secretary of State

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