RULES
OF
THE TENNESSEE DEPARTMENT OF STATE

CHAPTER 1360-01-02
FILING OF RULES

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1360-01-02-.01 PURPOSE.

It is the intent of the Secretary of State to simplify the rulemaking process for state agencies with rulemaking authority by incorporating a series of forms that shall be completed by the agency and submitted to the Secretary. These forms are furnished at the Secretary of State web site: sos.tn.gov/division-publications/rules-and-regulations. The agency is then to go to the Publications Division within the site and follow the instructions. These forms are to be completed by computer and printed for submission to the Secretary of State.

Authority: *T.C.A. §§ 4-5-202 and 4-5-206.* ***Administrative History:*** *(For history prior to June 22, 1984 see pages 1-1. 001.). Repeal and new rule filed May 23, 1984; effective June 22, 1984. Repeal and new rule filed July 29, 2008; effective November 28, 2008.*

1360-01-02-.02 DEFINITIONS OF RULES. The following are definitions of types of rules that can be filed with the Secretary of State pursuant to the Uniform Administrative Procedures Act.

(1) The term "rules" shall mean rulemaking hearing rules, proposed rules, and emergency rules. Each term mentioned is applicable to its own form.

(2) Form SS-7039 is applicable to "rulemaking hearing rules." These are rules filed by an agency after a rulemaking hearing is conducted pursuant to T.C.A. §4-5-202.

(3) Form SS-7038 is applicable to "proposed rules." These are rules filed by an agency without a rulemaking hearing pursuant to T.C.A. §4-5-205.

(4) Form SS-7040 is applicable to "emergency rules." These are filed by an agency pursuant to T.C.A. 4-5-208 (a), where:

(a) an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public; or

(b) the rule only delays the effective date of another rule that is not effective; or

(c) it is required by the constitution or court order; or

(d) it is required by an agency of the federal government and adoption of the rule through ordinary rulemaking procedure described in this chapter might jeopardize a federal program or funds; or

(Rule 1360-01-02-.02, continued)

(e) the agency is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules.

(5) Reserved

Authority: *T.C.A. §§ 4-5-202, 4-5-206, 4-5-208, 4-5-209 and Public Chapter 566 of the 106th General Assembly.* ***Administrative History:*** *(For history prior to June 22, 1984 see pages 1-1. 001.). Repeal and new rule filed May 23, 1984; effective June 22, 1984. Repeal and new rule filed July 29, 2008; effective November 28, 2008. Amendments filed August 24, 2009; effective January 29, 2010.*

1360-01-02-.03 PAPER SIZE, MARGINS AND NUMBERING OF RULES.

(1) All notices of rulemaking hearings filed with the Secretary of State must be on white, medium bond paper, size eight and one-half by eleven inches. The margins of this form will be preselected by the Secretary of State. After the form is completed it can be printed and copies made for submission to the Secretary of State.

(2) Control Number. A four-digit number has been assigned to each state agency authorized by law to make rules or determine contested cases. This control number will be used on all rules filed for publication with the Secretary of State pursuant to the Administrative Procedures Act, Tennessee Code Annotated Title 4, Chapter 5.

(3) Numbering Rules

(a) Where the agency is small and its functions are limited to one particular area, the second number designating the major division of primary subject matter may be dispensed with.

Example: 1200-06-01-.01

1200	06	01	.01
Control number	Division	Chapter	Rule

(4) Rule Structure. All separate parts of a rule shall be designated by a letter or number. Rules shall be organized, numbered and referenced according to the following outline form:

(1) Paragraph

(a) subparagraph

1. part

(i) subpart

(I) item

I. subitem

A. section

(A) subsection

Authority: *T.C.A. §§4-5-206, 4-5-220 and 4-5-221.* ***Administrative History:*** *(For history prior to June 22 1984 see pages 1-1.001. Repeal and new rule filed May 23, 1984; effective June 22, 1 984.*

(Rule 1360-01-02-.03, continued)
Amendment filed June 12, 1995; effective October 27, 1995. Repeal and new rule filed July 29, 2008; effective November 28, 2008.

1360-01-02-.04 FORMS AND THE COMPLETION OF FORMS. The forms supplied by the Secretary of State through the web site (sos.tn.gov/division-publications/rules-and-regulations) shall be completed by the rule filer and the following guidelines are to be followed:

(1) A Proposed Rulemaking Form, Rulemaking Hearing Form and a Temporary Rule Filing Form shall require the following:

(a) Three (3) entire forms completed with original signatures.

1. The following guidelines apply to the document:

(i) The documents must be clean and legible.

(ii) Use of capitals and lower case in all text. No “all caps.”

(iii) No bold, underline or italic fonts.

(iv) Do not use auto-numbering on paragraphs in the text of rule.

(v) Do not use the MS Word function “track changes.”

(vi) Do not use unneeded punctuation. Example: No comma between the rule number and rule title or apostrophe after agency name in main heading.

(vii) Use T.C.A. for Tennessee Code Annotated.

(viii) No hard return at the end of lines within a paragraph. Use at the end of a paragraph.

(ix) Use the enter key to put space between paragraphs. Do not use paragraph formatting before or after the paragraph to create space. This function does not work well with style pallets.

(x) Use hyphens on keyboard with no space between hyphen and rule numbers. Variations can cause search options to overlook target.

(xi) No single digits on rule and chapter numbers. Place “0” with single numbers. Example: 1200-5-5 = 1200-05-05.

(xii) Responses to comments are not part of the Government Operations Committee statement. Compose responses on separate sheet of paper. If there were no comments to respond to, draft a memo stating that fact.

(xiii) Font style for all submissions shall be Arial and point size 10.

(b) Diskette or CD submission of the material is required. Other requests for transmission of data can be accommodated; however, the filing agency must contact the division before submission.

1. The file must be in MS Word software. Contact the division if unsure about software requirements.

2. The disk or CD should be labeled and include the following information:

(Rule 1360-01-02-.04, continued)

(i) software program and version.

(ii) chapter(s) and rule number(s).

(iii) name, address, telephone number and e-mail address of the person who made the disk file and is responsible for the contents.

(iv) include only what is required on disk/CD. Label disk/CD with chapter number. Files not required by the Secretary of State should not be included on the disk/CD accompanying the rule.

(v) Any electronic submission of forms shall not be encrypted. Any transmission of encrypted material to the Secretary of State pursuant to the Uniform Administrative Procedures Act will be rejected and returned to the agency as non compliant.

(2) Page numbering – Page one of all filings will be on the prescribed form. All additional pages will be numbered sequentially at the bottom, middle of the page.

(3) Each rule filed with the Secretary of State shall clearly show at the bottom of that rule the statutory authority (rulemaking as well as substantive) for each rule. Where a particular group of rules has the same statutory authority, then that authority need only be cited once at the end of that group of rules.

(4) All rules filed with the Secretary of State shall be certified.

(5) New rules and amendments may be filed together with the same set of signatures so long as they are grouped and separated by the headings “New Rules” and/or “Amendments.” When filing multiple amendments involving more than one rule and/or chapters within one document, the amendments must be in numeric order.

Authority: *T.C.A. §§ 4-5-202, 4-5-202(c), 4-5-203(e), 4-5-206, 4-5-206(d), 4-5-208 and 4-5-209.* ***Administrative History:*** *(For history prior to June 22, 1984 see pages 1 - 1. 001.). Repeal and new rule filed May 23, 1984; effective June 22, 1984. Amendment filed June 12, 1995; effective October 27, 1995. Amendment filed August 17, 1998; effective December 29, 1998. Repeal and new rule filed July 29, 2008; effective November 28, 2008. Amendment filed August 24, 2009; effective January 29, 2010. Amendment filed October 20, 2011; effective March 30, 2012.*

1360-01-02-.05 ADDITIONAL REQUIREMENTS.

(1) Responses to comments

(a) When filing rulemaking hearing rules, a document containing responses to comments submitted at the rulemaking hearing must accompany the rule filing as prescribed in T.C.A. §4-5-222. One copy of the responses is required to be filed with the filing. This requirement states only agency responses to comments are required. Letters of inquiry from parties questioning the rule will not be accepted. These comments can be summarized.

(b) When no comments are received at the hearing then there will be no responses by the agency. In this case the agency should draft a memorandum stating such and send to the Secretary of State with the filing. Minutes of the meetings will not be accepted.

(2) Joint Government Operations Committee Legislative Oversight

(Rule 1360-01-02-.05, continued)

(a) The Secretary of State will forward the rule filings and the information submitted pursuant to T.C.A. §4-5-225 (i) (1) through (9) to the Government Operations Committee. This enables the required information to be received by the committee at the same time as the rule filings, thus facilitating the committee's review of the rule filings.

(3) Regulatory Flexibility Act

(a) Pursuant to the Regulatory Flexibility Act all agencies shall submit a statement that will accompany the rule filing with relation to the impact on small businesses.

(b) Requirements of this section can be found in Public Chapter 464 of the Acts of 2007.

(c) If applicable, the statement shall be added to the rule filing document after the signature of the Secretary for publication in the Tennessee Administrative Register by the Secretary of State.

(4) "Redline" Copy of Rule Filing

(a) Pursuant to Public Chapter 741 of the 105th General Assembly, all agencies shall submit a "redline" version of the filing in addition to the three (3) copies required by the Secretary of State. This copy will be forwarded to the General Assembly by the Secretary of State for review by the appropriate committees.

(b) "Redline" form is a copy of the filing that shall "denote all amendments to an existing rule by placing a line through all language to be deleted and by including all language to be added in brackets or underlined or by another clearly recognizable method that indicates the changes made to the rule."

(c) Public Chapter 741 took effect July 1, 2008.

Authority: *T.C.A. §§ 4-5-202, 4-5-206, 4-5-222, and Public Chapters 464 and 741 of the 105th General Assembly.* ***Administrative History:*** *Original rule filed June 12, 1995; effective October 27, 1995. Amendment filed August 17, 1998; effective December 29, 1998. Repeal and new rule filed July 29, 2008; effective November 28, 2008. Amendment filed May 9, 2012; effective October 29, 2012.*

1360-01-02-.06 FORMS FOR RULEMAKING. The following forms are required for rulemaking. These forms can be found at the Secretary of State's web site: sos.tn.gov/division-publications/rules-and-regulations.

(1) Proposed rule form is SS-7038.

(2) Rulemaking hearing rule form is SS-7039.

(3) Temporary rule form (Emergency Rules) is SS-7040.

Authority: *T.C.A. §4-5-206 and Public Chapter 566 of the 106th General Assembly.* ***Administrative History:*** *(For history prior to June 22, 1984 see pages 1- 1. 001.). Repeal and new rule filed May 23, 1984; effective June 22, 1984. Amendment renumbering rule (formerly 1360-01-02-.05) filed June 12, 1995; effective October 27, 1995. Repeal and new rule filed July 29, 2008; effective November 28, 2008. Amendment filed August 24, 2009; effective January 29, 2010.*

1360-01-02-.07 RESERVATION OF RIGHT OF REJECTION BY THE SECRETARY OF STATE

The Secretary of State reserves the right to reject agency submittals for noncompliance with these rules.

(Rule 1360-01-02-.07, continued)

Authority: *T.C.A. §§4-5-202 and 4-5-206.* ***Administrative History:*** *Original rule filed July 29, 2008; effective November 28, 2008.*