

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 04-18-15  
Rule ID(s): 5935  
File Date: 4-17-15  
Effective Date: 7-16-15

# 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).

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Water Resources
<b>Contact Person:</b>	Sherwin Smith
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0166
<b>Email:</b>	<a href="mailto:Sherwin.Smith@tn.gov">Sherwin.Smith@tn.gov</a>

**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
0400-46-06	State Revolving Fund
Rule Number	Rule Title
0400-46-06-.05	Uses of the Fund
0400-46-06-.06	Application Procedure
0400-46-06-.08	Financing Methods

(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 0400-46-06  
State Revolving Fund

Amendments

Paragraph (2) of Rule 0400-46-06-.05 Uses of the Fund is amended by deleting it in its entirety and substituting instead the following:

- (2) To pay program administration costs.

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (4) of Rule 0400-46-06-.06 Application Procedure is amended by deleting it in its entirety and substituting instead the following:

- (a) identification of the planning area boundaries and characteristics, the existing problems and needs and problems for the next 30 or more years;

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

Paragraph (1) of Rule 0400-46-06-.08 Financing Method is amended by deleting it in its entirety and substituting instead the following:

- (1) A construction loan, including loans made solely for equipment, shall be made for a period of time not to exceed 30 years or the useful life, whichever is shorter.

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

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

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 Environment and Conservation on 01/27/2015, 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: 12/02/14

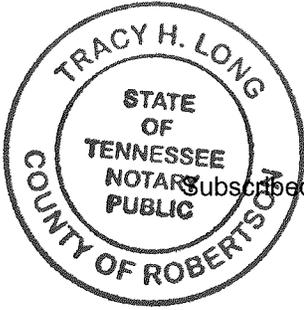
Rulemaking Hearing(s) Conducted on: (add more dates). 01/26/15

Date: 1-27-15

Signature: [Handwritten Signature]

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner



Subscribed and sworn to before me on: 1/27/2015

Notary Public Signature: [Handwritten Signature]

My commission expires on: 2/8/2017

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.

[Handwritten Signature]  
Herbert H. Statory III  
Attorney General and Reporter  
4/10/2015  
Date

**Department of State Use Only**

Filed with the Department of State on: 4-17-15

Effective on: 7-16-15

[Handwritten Signature]  
Tre Hargett  
Secretary of State

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## Public Hearing Comments

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

There were no comments received during the comment period.

## 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 State Revolving Fund (SRF) Loan Program provides low-interest loans that help local governments, utility districts, and wastewater authorities finance projects that protect Tennessee's ground and surface waters and public health. There is no cost to local governments as a result of this rulemaking.

- (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 additional costs associated with this rulemaking.

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

There is no impact to small businesses and consumers resulting from this rulemaking, however there will be an increase in affordability of loan funds to smaller sized, less affluent communities 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.

There is no impact to small businesses resulting from this rulemaking.

- (5) A comparison of the proposed rule with any federal or state counterparts.

With this rulemaking the department will be consistent with federal guidelines and comparable to surrounding states.

- (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.

To accomplish the goal of this rulemaking an exemption of small businesses is not possible because there is no impact 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 Department anticipates that this rulemaking will have a beneficial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The State Revolving Fund Loan Program (SRFLP) provides low cost financial assistance to local governments in the state relative to necessary wastewater facilities in order to improve and protect water quality and public health. Rules applicable to the operation and implementation of the SRFLP are found at Chapters 0400-46-01 through 0400-46-06 of the Rules of the Tennessee Department of Environment and Conservation Water Resources Division.

This year the Water Resources Reform and Development Act of 2014 (WRRDA) amended certain portions of the Federal Water Pollution Control Act (FWPCA or Clean Water Act). These amendments included an increase in the term of loans provided by SRFLPs from 20 years to 30 years and increased flexibility regarding the manner in which reasonable costs associated with administering the SRFLP are funded. Due to these recent federal changes, Chapter 0400-46-06 of SRFLP rules is being amended to increase the term of loans provided from 20 years to 30 years and to remove current limitations on funding options for paying reasonable costs associated with administering the SRFLP. Making such changes will result in (1) consistency with federal guidelines, (2) reduction in requisite state appropriations, (3) providing a solution to dependence on federal capitalization grants and associated set aside funds to administer the SRFLP and (4) an increase in affordability of loan funds to smaller sized, less affluent communities in Tennessee.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is being promulgated under the authority of T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The State Revolving Fund (SRF) Loan Program provides low-interest loans that help local governments, utility districts, and wastewater authorities finance projects that protect Tennessee's ground and surface waters and public health. None of these entities urged adoption or rejection of these rules.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rulemaking will have no fiscal impact on state and local governments, however it will result in an increase in affordability of loan funds to smaller sized, less affluent communities in Tennessee.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Sherwin Smith  
Division of Water Resources  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 12th Floor  
Nashville, Tennessee 37243  
Sherwin.Smith@tn.gov

**(G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jenny Howard  
Deputy General Counsel  
Office of General Counsel

**(H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) 532-0131  
[Jenny.Howard@tn.gov](mailto:Jenny.Howard@tn.gov)

**(I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.

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<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Water Resources
<b>Contact Person:</b>	Sherwin Smith
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0166
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**Revision Type (check all that apply):**

- Amendment  
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 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
0400-46-06	State Revolving Fund
Rule Number	Rule Title
0400-46-06-.05	Uses of the Fund
0400-46-06-.06	Application Procedure
0400-46-06-.08	Financing Methods

(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 0400-46-06  
State Revolving Fund

Amendments

Paragraph (2) of Rule 0400-46-06-.05 Uses of the Fund is amended by deleting it in its entirety and substituting instead the following:

- (2) To pay program administration costs ~~(not to exceed 4% of the annual federal capitalization grant).~~

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (4) of Rule 0400-46-06-.06 Application Procedure is amended by deleting it in its entirety and substituting instead the following:

- (a) identification of the planning area boundaries and characteristics, the existing problems and needs and problems for the next ~~20~~ 30 or more years;

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

Paragraph (1) of Rule 0400-46-06-.08 Financing Method is amended by deleting it in its entirety and substituting instead the following:

- (1) A construction loan, including loans made solely for equipment, shall be made for a period of time not to exceed ~~20~~ 30 years or the useful life, whichever is shorter.

Authority: T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

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

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 Environment and Conservation on 01/27/2015, 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: 12/02/14

Rulemaking Hearing(s) Conducted on: (add more dates). 01/26/15

Date: January 27, 2015

Signature: \_\_\_\_\_

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

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- (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 additional costs associated with this rulemaking.

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

There is no impact to small businesses and consumers resulting from this rulemaking, however there will be an increase in affordability of loan funds to smaller sized, less affluent communities 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.

There is no impact to small businesses resulting from this rulemaking.

- (5) A comparison of the proposed rule with any federal or state counterparts.

With this rulemaking the department will be consistent with federal guidelines and comparable to surrounding states.

- (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.

To accomplish the goal of this rulemaking an exemption of small businesses is not possible because there is no impact 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 Department anticipates that this rulemaking will have a beneficial impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The State Revolving Fund Loan Program (SRFLP) provides low cost financial assistance to local governments in the state relative to necessary wastewater facilities in order to improve and protect water quality and public health. Rules applicable to the operation and implementation of the SRFLP are found at Chapters 0400-46-01 through 0400-46-06 of the Rules of the Tennessee Department of Environment and Conservation Water Resources Division.

This year the Water Resources Reform and Development Act of 2014 (WRRDA) amended certain portions of the Federal Water Pollution Control Act (FWPCA or Clean Water Act). These amendments included an increase in the term of loans provided by SRFLPs from 20 years to 30 years and increased flexibility regarding the manner in which reasonable costs associated with administering the SRFLP are funded. Due to these recent federal changes, Chapter 0400-46-06 of SRFLP rules is being amended to increase the term of loans provided from 20 years to 30 years and to remove current limitations on funding options for paying reasonable costs associated with administering the SRFLP. Making such changes will result in (1) consistency with federal guidelines, (2) reduction in requisite state appropriations, (3) providing a solution to dependence on federal capitalization grants and associated set aside funds to administer the SRFLP and (4) an increase in affordability of loan funds to smaller sized, less affluent communities in Tennessee.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is being promulgated under the authority of T.C.A. §§ 68-221-1001 et seq. and 4-5-201 et seq.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

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- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

This rulemaking will have no fiscal impact on state and local governments, however it will result in an increase in affordability of loan funds to smaller sized, less affluent communities in Tennessee..

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Sherwin Smith  
Division of Water Resources  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 12th Floor  
Nashville, Tennessee 37243  
[Sherwin.Smith@tn.gov](mailto:Sherwin.Smith@tn.gov)

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Jenny Howard  
Deputy General Counsel  
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.

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2015 APR 17 AM 9:22  
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