

Department of State**Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 09-25-13
 Rule ID(s): 5560-5561
 File Date: 9/17/13
 Effective Date: 12/16/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Water Resources
Contact Person:	Bob O'Dette
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11 th Floor Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 253-5319
Email:	Robert.Odette@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
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Chapter 1200-05-02 Public Sewerage Systems is repealed.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 criteria 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.

* 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)
James W. Cameron III	X				
Jill E. Davis				X	
Mayor Kevin Davis	X				
Derek Gernt				X	
John Guoynes	X				
C. Monty Halcomb	X				
Chuck Head	X				
Charlie R. Johnson	X				
Judy Manners	X				
John McClurkan	X				
Frank McGinley				X	
D. Anthony Robinson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil and Gas on 06/18/2013, 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: 02/13/13

Rulemaking Hearing(s) Conducted on: (add more dates). 04/09/13

Date: June 18, 2013

Signature: *James W. Cameron III*

Name of Officer: James W. Cameron III

Title of Officer: Chairman



Subscribed and sworn to before me on: June 18, 2013

Notary Public Signature: *Carol L. Grice*

My commission expires on: June 21, 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.

Robert E. Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
8-23-13

Date

Department of State Use Only

Filed with the Department of State on: 9/17/13

Effective on: 12/16/13



Tre Hargett
Secretary of State

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2013 SEP 17 PM 3:52
DEPARTMENT OF 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.

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.

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.

- (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.

No small businesses were identified that would be impacted by this rule.

- (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.

- (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.

There is no meaningful comparison with any federal or state counterparts for this rulemaking.

- (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.

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 does not anticipate that this rulemaking will have an 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;

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.

- (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. §§ 68-221-101 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;

Municipalities, utility districts, those corporately owned, state owned, and all others serving the public, including industrial wastes discharged into public systems are impacted by this rule. No comments either for adoption or rejection of the rule were received.

- (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.

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

Robert O'Dette
Division of Water Resources
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243
(615) 253-5319

- (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

(l) 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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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
0400-40-16	Public Sewerage Systems
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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
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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
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0400-40-16-.04 Interconnections or other Connections with Potable Water Supply
0400-40-16-.05 Investigations, Reports, and Recommendations, Standards, and Orders

~~1200-5-2-.01~~ 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 ~~Public Health~~ Environment and Conservation through its executive officer, the Commissioner of ~~Public Health~~ 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.

~~1200-5-2-.02~~ 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 ~~Public Health~~ 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 of criteria 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 Public Health 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 Public Health 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 ~~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~~ 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.

~~1200-5-2-03~~ 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 Public Health 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 Public Health 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 Public Health 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 Public Health 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.

~~1200-5-2-04~~ 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.

~~1200-5-2-05~~ 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 Health 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 Public-Health 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 Public-Health 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.

* 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)
James W. Cameron III	X				
Jill E. Davis				X	
Mayor Kevin Davis	X				
Derek Gernt				X	
John Guoynes	X				
C. Monty Halcomb	X				
Chuck Head	X				
Charlie R. Johnson	X				
Judy Manners	X				
John McClurkan	X				
Frank McGinley				X	
D. Anthony Robinson	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Water Quality, Oil and Gas on 06/18/2013, 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: 02/13/13

Rulemaking Hearing(s) Conducted on: (add more dates). 04/09/13

Date: June 18, 2013

Signature: _____

Name of Officer: James W. Cameron III

Title of Officer: Chairman

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.

 Robert E. Cooper, Jr.
 Attorney General and Reporter

 Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of 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.

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.

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.

- (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.

No small businesses were identified that would be impacted by this rule.

- (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.

- (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.

There is no meaningful comparison with any federal or state counterparts for this rulemaking.

- (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.

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 does not anticipate that this rulemaking will have an 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;

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.

- (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. §§ 68-221-101 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;

Municipalities, utility districts, those corporately owned, state owned, and all others serving the public, including industrial wastes discharged into public systems are impacted by this rule. No comments either for adoption or rejection of the rule were received.

- (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.

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

Robert O'Dette
Division of Water Resources
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243
(615) 253-5319

- (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

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

The Department is not aware of any.