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Sequence Number: 12-16-14
 Notice ID(s): 2285
 File Date: 12/11/14

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:	Anna Rollins
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee 37243
Phone:	615-532-0159
Email:	anna.rollins@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 Beverly Evans 2nd Floor William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue Nashville, Tennessee 37243
Address:	1-866-253-5827 (toll free) or (615) 532-0200
Phone:	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:	Nashville Room, 3 rd Floor		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	02/09/15		
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Videoconferencing Location(s): The public may teleconference the Nashville hearings at the following locations:

Address 1:	Main Conference Room Memphis Environmental Field Office		
Address 2:	8383 Wolf Lake Drive		
City:	Bartlett, Tennessee		
Zip:	38133		
Hearing Date :	02/09/15		
Hearing Times:	9:30 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Main Conference Room Jackson Environmental Field Office	
Address 2:	1625 Hollywood Drive	
City:	Jackson, Tennessee	
Zip:	38305	
Hearing Date :	02/09/15	
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

Address 1:	Conference Room Columbia Environmental Field Office	
Address 2:	1421 Hampshire Pike	
City:	Columbia, Tennessee	
Zip:	38401	
Hearing Date :	02/09/15	
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

Address 1:	Conference Room Nashville Environmental Field Office	
Address 2:	711 R. S. Gass Blvd	
City:	Nashville, Tennessee	
Zip:	37243	
Hearing Date :	02/09/15	
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

Address 1:	Conference Room Cookeville Environmental Field Office	
Address 2:	1221 South Willow Avenue	
City:	Cookeville, Tennessee	
Zip:	38506	
Hearing Date :	02/09/15	
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> X CST/CDT <input type="checkbox"/> EST/EDT

Address 1:	Conference Room Chattanooga Environmental Field Office	
Address 2:	1301 Riverfront Parkway Suite 206	
City:	Chattanooga, Tennessee	
Zip:	37402	
Hearing Date :	02/09/15	
Hearing Times:	10:30 a.m.	<input type="checkbox"/> CST/CDT <input checked="" type="checkbox"/> X EST/EDT

Address 1:	Main Conference Room Knoxville Environmental Field Office	
Address 2:	3711 Middlebrook Pike	
City:	Knoxville, Tennessee	
Zip:	37921	
Hearing Date :	02/09/15	
Hearing Time:	10:30 a.m.	<input type="checkbox"/> CST/CDT <input checked="" type="checkbox"/> X EST/EDT

Address 1:	Main Conference Room Johnson City Environmental Field Office	
Address 2:	2305 Silverdale Road	
City:	Johnson City, Tennessee	
Zip:	37601	
Hearing Date :	02/09/15	
Hearing Time:	10:30 a.m.	<input type="checkbox"/> CST/CDT <input checked="" type="checkbox"/> X EST/EDT

Additional Hearing Information:

The purpose of this rulemaking is to comply with the directive of the legislature under T.C.A. §§ 69-10-107(d) and (e) that the Board of Ground Water Management promulgate rules to mandate the creation of a conflict of interest policy for board members and to establish the criteria to be used by the Board in making recommendations to the Commissioner regarding applications for driller's and installer's licenses. The rulemaking authority given to the Board of Ground Water Management is limited to these two issues.

The "Draft" rules may also be accessed for review using <http://tn.gov/environment/ppo/#dwr>.

The Department prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules are available for review at the following address:

Tennessee Department of Environment and Conservation
Division of Water Resources
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 11th Floor
Nashville, Tennessee 37243
(615) 532-0159

Office hours are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays).

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: Ms. Anna Rollins, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 11th Floor, Nashville, Tennessee 37243; telephone (615) 532-0159 or fax (615) 532-0199. However, such written comments must be received by 4:30 PM CDT, February 16, 2015, in order to assure consideration. For further information, please contact Ms. Anna Rollins at the above address or telephone number or by e-mail at anna.rollins@tn.gov.

Revision Type (check all that apply):

- Amendment
- New
- 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
0400-45-10	Rules of the Board of Ground Water Management
Rule Number	Rule Title
0400-45-10-.01	Purpose and Intent
0400-45-10-.02	Definitions
0400-45-10-.03	Conflict of Interest
0400-45-10-.04	Reserved
0400-45-10-.05	Criteria for Making Recommendations Regarding License Applications

(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>)

New Rule

Chapter 0400-45-10 Rules of the Board of Ground Water Management

Table of Contents

0400-45-10-.01 Purpose and Intent
0400-45-10-.02 Definitions
0400-45-10-.03 Conflict of Interest
0400-45-10-.04 Reserved
0400-45-10-.05 Criteria for Making Recommendations Regarding License Applications

0400-45-10-.01 Purpose and Intent

It is the purpose of this chapter to address T.C.A. §§ 69-10-107(d) and (e) which require the Board of Ground Water Management to promulgate rules to mandate the creation of a conflict of interest policy for board members and establish the criteria to be used by the Board in making recommendations to the Commissioner regarding applications for driller's and installer's licenses.

0400-45-10-.02 Definitions

As used in this chapter, unless context otherwise requires:

- (1) "Board" means the board of ground water management.
- (2) "Borehole" means the cylindrical opening created by the action of a drill or auger as it penetrates the subsurface.
- (3) "Closed loop geothermal borehole" means a cylindrical opening created by the action of a drill or auger as it penetrates the subsurface greater than twenty (20) feet in depth used to either extract or transfer heat from the earth for heating or cooling. This is also referred to as a geothermal well in T.C.A. § 69-10-101 et seq.
- (4) "Commissioner" means the commissioner of environment and conservation, the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner of environment and conservation.
- (5) "Department" means the department of environment and conservation.
- (6) "Drill" means to dig, drill, redrill, construct, deepen or alter a well.
- (7) "Driller" means any person who digs, drills, redrills, constructs, deepens or alters a well.
- (8) "Experience" means the skill and knowledge derived from the actual direct participation and practice gained in a specific occupation. For drillers experience includes the skill and knowledge gained in operating drilling equipment to drill and construct a well or closed loop geothermal borehole. For installers experience includes the skill, knowledge and actual direct participation in determining the equipment required and installing equipment either in or on wells or closed loop geothermal boreholes. Such skill and knowledge must qualify the individual to deal with circumstances and problems that may be encountered by an occupation.
- (9) "Geothermal well" means a hole drilled into the earth, by boring or otherwise, greater than twenty feet (20') in depth constructed for the primary purpose of adding or removing British Thermal Units (BTUs) from the earth for heating or cooling.
- (10) "Installer" means any person who installs or repairs well pumps or who installs filters and water treatment

devices.

- (11) "Monitoring well" means a hole drilled into the earth, by boring or otherwise, constructed for the primary purpose of obtaining information on the elevation or physical, chemical, radiological or biological characteristics of the ground water or for the recovery of ground water for treatment, or both.
- (12) "Person" means any individual, organization, group, association, partnership, corporation, limited liability company, utility district, state or local government agency or any combination thereof.
- (13) "Water well" means a hole drilled into the earth, by boring or otherwise, for the production of water.
- (14) "Well" means one of these three (3) types of holes in the earth: a geothermal well, a monitoring well, or a water well.

0400-45-10-.03 Conflict of Interest

- (1) The board shall create a conflict of interest policy governing conflicts of interests that requires board members to avoid conflicts of interest, identifies specific actions that are prohibited to be taken by a board member and, if a matter is considered by the board in which a member of the board has a conflict of interest, mandates disclosure that a conflict exists and recusal from the matter by the board member.
- (2) Each board member during the first meeting of the board each calendar year, or the member's first attendance of a board meeting of the calendar year, shall:
 - (a) Make a written disclosure of financial interests or other interests that the board member reasonably anticipates have potential to become a conflict of interest;
 - (b) Acknowledge in writing that the board member has read and understands all aspects of the board's conflict of interest policy; and
 - (c) State as a condition of serving as a board member that he or she is not in conflict with the conditions of the board's conflict of interest policy.

0400-45-10-.04 Reserved

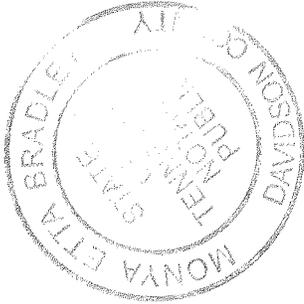
0400-45-10-.05 Criteria for Making Recommendations Regarding License Applications

- (1) As provided in Rule 0400-45-09-.05, the board shall determine whether to recommend an applicant to the commissioner for licensing.
- (2) To make the recommendation required by paragraph (1) of this rule, a quorum of the board shall interview an applicant that has complied with Rules 0400-45-09-.02 through 0400-45-09-.05 to determine the quality and quantity of the applicant's experience. Questioning by individual board members will include, but not be limited to, the following:
 - (a) Where and when the applicant's experience was obtained;
 - (b) Types of equipment used by the applicant;
 - (c) The applicant's level of responsibility;
 - (d) Familiarity of the applicant with addressing problems such as:
 1. Construction techniques used in each type well drilled for each license applied for;
 2. Operation of drilling equipment used in drilling wells or boreholes; and
 3. Installation techniques and principles of operation for pumps and or water treatment devices;
 - (e) Knowledge of state well construction standards; and

(f) Responsibilities of licensees to the well owner and the department.

Authority: T.C.A. §§ 69-10-107(d) and (e) 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: December 11, 2014

Signature: [Handwritten Signature]

Name of Officer: Tisha Calabrese-Benton

Title of Officer: Director of the Division of Water Resources

Subscribed and sworn to before me on: December 11, 2014

Notary Public Signature: [Handwritten Signature: Monya Etta Bradley]

My commission expires on: August 17, 2015

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Filed with the Department of State on: 12/11/14

[Handwritten Signature: Tre Hargett]

Tre Hargett
Secretary of State

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