

**Department of State
Division of Publications**

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

For Department of State Use Only

Sequence Number: 01-19-17
Rule ID(s): 6409
File Date: 1/18/17
Effective Date: 4/18/17

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).

Agency/Board/Commission: Environment and Conservation
Division: Water Resources
Contact Person: Alan Schwendimann
Address: J. R. Fleming Environmental Training Center
2022 Blanton Drive
Murfreesboro, Tennessee
Zip: 37129
Phone: (615) 532-0766
Email: Alan.Schwendimann@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
0400-49-01	Rules Governing Water and Wastewater Operator Certification
Rule Number	Rule Title
0400-49-01-.01	Application for Certificate
0400-49-01-.02	Examinations
0400-49-01-.03	Fees

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0400-49-01
Rules Governing Water and Wastewater Operator Certification

Amendments

Part 1 of subparagraph (b) of paragraph (1) of Rule 0400-49-01-.01 Application for Certificate is amended by deleting it in its entirety and substituting instead the following:

1. A sworn application signed by the applicant.

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (2) of Rule 0400-49-01-.01 Application for Certificate is amended by deleting it in its entirety and substituting instead the following:

1. A sworn application signed by the applicant.

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Paragraph (1) of Rule 0400-49-01-.02 Examinations is amended by deleting it in its entirety and substituting instead the following:

- (1) All examinations shall be taken in a manner provided by the Board; however, the Board may approve alternate examination methods if an applicant has a disability which would prevent him/her from taking the provided methods of examination. The Board may provide examinations in written or electronic formats.

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (1) of Rule 0400-49-01-.03 Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) Fees for certification shall be required of each applicant and paid in advance as follows:
 1. Application fee for each operator examination or reciprocity request applied for..... \$100
 2. Discount annual renewal fee for each operator certificate:
(Payment prior to February 1)..... \$50
 3. Standard annual renewal fee for each operator certificate:
(Payment from February 1 through June 30.)..... \$100

Authority: T.C.A. §§ 68-221-901 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)
Alan C. Cranford Municipal Government	X				
Jennifer Dodd Commissioner's Designee	X				
J. Darryl Green Certified Operator	X				
Dr. Larry W. Moore Faculty Member				X	
Gregory L. Morgan Certified Operator	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Water and Wastewater Operator Certification Board on 07/21/2016, 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: 05/03/16

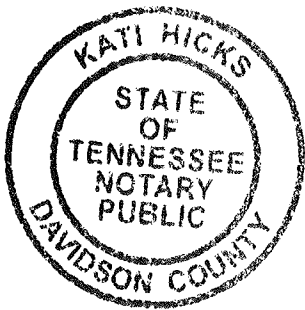
Rulemaking Hearing(s) Conducted on: (add more dates). 06/28/16

Date: July 26, 2016

Signature: *Alan C. Cranford*

Name of Officer: Alan C. Cranford

Title of Officer: Chairman



Subscribed and sworn to before me on: July 26, 2016

Notary Public Signature: *Kati Hicks*

My commission expires on: 11/5/18

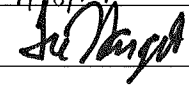
All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
1/12/2017
Date

Department of State Use Only

Filed with the Department of State on: 1/18/17

Effective on: 4/18/17



Tre Hargett
Secretary of State

RECEIVED
2017 JAN 18 AM 9:04
SECRETARY OF STATE
PUBLICATIONS

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.

The Tennessee Water and Wastewater Operator Certification Board received comments from the Tennessee Municipal League (TML) in the form of questions as follows:

Comment: TML wanted to know how much money is the proposed increase in fees estimated to generate and how the money from the increase will be spent.

Response: The proposed increase in fees will generate approximately \$120,000 which will be spent on upgrades to outdated computer systems, increased staffing, increased services offered to water and wastewater operators, and general improvements to the program's ability to serve its stakeholders.

Comment: TML requested a workload analysis report for at least the last three years covering activities affecting the proposed fees and any related grants or other type of funding, including any backlog or pending matters.

Response: The proposed fees relate to renewals of water and wastewater operator certificates. Each year, operators are required to renew their certifications. As the number of operators in Tennessee grows, processing these renewals has become more time-consuming for the limited staff at the Fleming Training Center (FTC). Specifically, the workload for FTC staff has increased from a ratio of 587.15 certificates per staff member in 2010 to 993.7 per staff member in 2015. Any backlog that results from the increased number of renewals that staff must process also results in a delay issuing these renewals to operators. The proposed fees will help lessen delays in processing time. Grant opportunities for funding were explored, but no applicable grants were available.

Comment: TML pointed out that the proposed amendment increases the discounted annual renewal fee for each operator certificate to \$50 from \$30, for payment prior to February 1st. It also increases the standard annual renewal fee for each operator certificate to \$100 from \$60, for payment from February 1st through June 30th. This is approximately a 67% increase in the fees. The commenter requested an explanation of why such a substantial increase is needed and asked for the date of the last fee increase for this service and if the Department has considered whether or not a smaller increase would be sufficient.

Response: The last operator fee increase was effective in FY2009-2010. The Department considered the amount of revenue currently needed, the amount of the current fee, and what increase would be necessary to effectively and efficiently provide services demanded by Tennessee municipalities, industries and utility districts. The proposed increase is the minimum increase that can generate the revenue required to ensure that the program can provide these services.

Comment: TML believes that the amount of fees charged should have a direct correlation to the services that municipalities receive; if fees increase, service levels should also increase. How will the increase in fees improve services to municipalities?

Response: The fee increase will improve overall services to municipalities including, but not limited to, general oversight responsibilities, training programs and materials, administrative tasks, such as record-keeping and processing applications and renewals, and administering the water and wastewater operation certification examination. The proposed increase will also allow for increased staffing, which would ease the administrative burden on existing staff and help ensure efficient and effective application and renewal processing.

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.

No Public Water Systems or Wastewater Treatment and Collection Systems that meet the definition of small businesses are directly affected by the proposed rule. These systems are not required to bear the cost of the proposed fee. However, a system could choose to cover the renewal fees for the operator(s) in its employ, in which case the system would be choosing to bear some of the cost of this proposed 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.

No additional reporting, recordkeeping, or other administrative costs are required for compliance with this proposed rule. The requirements associated with an application for certification or reciprocity will be decreased under the proposed rule, as the applications will no longer require notarization.

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

There is no anticipated impact on consumers resulting from this rulemaking. However, as stated above, Public Water Systems and Wastewater Treatment and Collection Systems may be affected if those systems choose to pay operator certification renewal fees for the operator(s) in their employ.

- (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.

One of the purposes of the proposed rule is to make the application process less burdensome on any person seeking operator certification under this rule, as well as to ensure that TDEC has the resources to effectively and efficiently administer the operator certification program. No available alternatives exist that can likewise meet that goal.

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

Federal law requires the states to establish an appropriate training and certification program and certain grants to TDEC are contingent on the establishment of this program. The proposed changes to the program in this rule change will not affect TDEC grant eligibility.

State programs for water and wastewater operator certification vary widely. Programs can be structured differently with respect to certificate renewal cycles and requirements, as well as training opportunities and number of applicants. Nonetheless, a review of other states' programs shows that Tennessee currently has some of the lowest fees compared to its state counterparts, even with the proposed fee increase. For example, in Alabama, operator certification renewals cost \$80, if submitted in paper format, or \$60, if submitted online. Likewise, in Kentucky, a paper renewal is \$100, whereas an online renewal is \$50. In Georgia, the renewal fee is \$65, regardless of submittal format. In Florida, renewal fees range from \$50 to \$250, based on type of renewal and/or expiration date of the certification.

- (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.

The rule change affects certified operators and those seeking to apply for licensure as a certified operator rather than directly affecting any businesses. As stated above, small businesses would only be affected indirectly, and only if those businesses elect to assist operators in their employ by paying renewal fees.

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 may 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;

The proposed changes to the Rules Governing Water and Wastewater Certification (Chapter 0400-49-01) clarify and simplify the rules. The amendments propose to eliminate the need for applicants to have their signature notarized, to support giving examinations in written and electronic formats, and increase the renewal application fees.

- (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 Tenn. Code Ann. §§ 68-221-901 et seq., and 68-203-101 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;

Certified Water and Wastewater Operators would be directly affected by this rule. Several organizations that represent this group of individuals have urged the adoption of this rule.

- (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;

The promulgation of this rule will have a negligible effect on local government revenues, if any, but will increase the revenue available to the Fleming Training Center by approximately \$120,000 annually to serve stakeholders.

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

Alan Schwendimann
J. R. Fleming Environmental Training Center
2022 Blanton Drive
Murfreesboro, TN 37129
(615) 532-0766
Alan.Schwendimann@tn.gov

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

Lucian Geise
Senior Counsel for Legislative Affairs
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) 532-0108
Lucian.Geise@tn.gov

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

The Department is not aware of any additional relevant information.

**Department of State
Division of Publications**

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

For Department of State Use Only

Sequence Number: _____
Rule ID(s): _____
File Date: _____
Effective Date: _____

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).

Agency/Board/Commission: Environment and Conservation
Division: Water Resources
Contact Person: Alan Schwendimann
Address: J. R. Fleming Environmental Training Center
2022 Blanton Drive
Murfreesboro, Tennessee
Zip: 37129
Phone: (615) 532-0766
Email: Alan.Schwendimann@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
0400-49-01	Rules Governing Water and Wastewater Operator Certification
Rule Number	Rule Title
0400-49-01-.01	Application for Certificate
0400-49-01-.02	Examinations
0400-49-01-.03	Fees

(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://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Chapter 0400-49-01
Rules Governing Water and Wastewater Operator Certification

Amendments

Part 1 of subparagraph (b) of paragraph (1) of Rule 0400-49-01-.01 Application for Certificate is amended by deleting it in its entirety and substituting instead the following:

1. A sworn ~~and notarized~~ application signed by the applicant.

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Part 1 of subparagraph (b) of paragraph (2) of Rule 0400-49-01-.01 Application for Certificate is amended by deleting it in its entirety and substituting instead the following:

1. A sworn ~~and notarized~~ application signed by the applicant.

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Paragraph (1) of Rule 0400-49-01-.02 Examinations is amended by deleting it in its entirety and substituting instead the following:

- (1) All examinations shall be ~~written except that~~ taken in a manner provided by the Board; ~~however, the Board may approve alternate examination methods if an applicant has a disability which would prevent him/her from taking a written the provided methods of examination. The Board may provide examinations in written or electronic formats.~~

Authority: T.C.A. §§ 68-221-901 et seq. and 4-5-201 et seq.

Subparagraph (a) of paragraph (1) of Rule 0400-49-01-.03 Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) Fees for certification shall be required of each applicant and paid in advance as follows:
 1. Application fee for each operator examination or reciprocity request applied for..... \$100
 2. Discount annual renewal fee for each operator certificate:
(Payment prior to February 1).....\$30 \$50
 3. Standard annual renewal fee for each operator certificate:
(Payment from February 1 through June 30.).....\$60 \$100

Authority: T.C.A. §§ 68-221-901 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)
Alan C. Cranford Municipal Government	X				
Jennifer Dodd Commissioner's Designee	X				
J. Darryl Green Certified Operator	X				
Dr. Larry W. Moore Faculty Member				X	
Gregory L. Morgan Certified Operator	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Water and Wastewater Operator Certification Board on 07/21/2016, 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: 05/03/16

Rulemaking Hearing(s) Conducted on: (add more dates). 06/28/16

Date: July 26, 2016

Signature: _____

Name of Officer: Alan C. Cranford

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.

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

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.

The Tennessee Water and Wastewater Operator Certification Board received comments from the Tennessee Municipal League (TML) in the form of questions as follows:

Comment: TML wanted to know how much money is the proposed increase in fees estimated to generate and how the money from the increase will be spent.

Response: The proposed increase in fees will generate approximately \$120,000 which will be spent on upgrades to outdated computer systems, increased staffing, increased services offered to water and wastewater operators, and general improvements to the program's ability to serve its stakeholders.

Comment: TML requested a workload analysis report for at least the last three years covering activities affecting the proposed fees and any related grants or other type of funding, including any backlog or pending matters.

Response: The proposed fees relate to renewals of water and wastewater operator certificates. Each year, operators are required to renew their certifications. As the number of operators in Tennessee grows, processing these renewals has become more time-consuming for the limited staff at the Fleming Training Center (FTC). Specifically, the workload for FTC staff has increased from a ratio of 587.15 certificates per staff member in 2010 to 993.7 per staff member in 2015. Any backlog that results from the increased number of renewals that staff must process also results in a delay issuing these renewals to operators. The proposed fees will help lessen delays in processing time. Grant opportunities for funding were explored, but no applicable grants were available.

Comment: TML pointed out that the proposed amendment increases the discounted annual renewal fee for each operator certificate to \$50 from \$30, for payment prior to February 1st. It also increases the standard annual renewal fee for each operator certificate to \$100 from \$60, for payment from February 1st through June 30th. This is approximately a 67% increase in the fees. The commenter requested an explanation of why such a substantial increase is needed and asked for the date of the last fee increase for this service and if the Department has considered whether or not a smaller increase would be sufficient.

Response: The last operator fee increase was effective in FY2009-2010. The Department considered the amount of revenue currently needed, the amount of the current fee, and what increase would be necessary to effectively and efficiently provide services demanded by Tennessee municipalities, industries and utility districts. The proposed increase is the minimum increase that can generate the revenue required to ensure that the program can provide these services.

Comment: TML believes that the amount of fees charged should have a direct correlation to the services that municipalities receive; if fees increase, service levels should also increase. How will the increase in fees improve services to municipalities?

Response: The fee increase will improve overall services to municipalities including, but not limited to, general oversight responsibilities, training programs and materials, administrative tasks, such as record-keeping and processing applications and renewals, and administering the water and wastewater operation certification examination. The proposed increase will also allow for increased staffing, which would ease the administrative burden on existing staff and help ensure efficient and effective application and renewal processing.

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.

No Public Water Systems or Wastewater Treatment and Collection Systems that meet the definition of small businesses are directly affected by the proposed rule. These systems are not required to bear the cost of the proposed fee. However, a system could choose to cover the renewal fees for the operator(s) in its employ, in which case the system would be choosing to bear some of the cost of this proposed 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.

No additional reporting, recordkeeping, or other administrative costs are required for compliance with this proposed rule. The requirements associated with an application for certification or reciprocity will be decreased under the proposed rule, as the applications will no longer require notarization.

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

There is no anticipated impact on consumers resulting from this rulemaking. However, as stated above, Public Water Systems and Wastewater Treatment and Collection Systems may be affected if those systems choose to pay operator certification renewal fees for the operator(s) in their employ.

- (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.

One of the purposes of the proposed rule is to make the application process less burdensome on any person seeking operator certification under this rule, as well as to ensure that TDEC has the resources to effectively and efficiently administer the operator certification program. No available alternatives exist that can likewise meet that goal.

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

Federal law requires the states to establish an appropriate training and certification program and certain grants to TDEC are contingent on the establishment of this program. The proposed changes to the program in this rule change will not affect TDEC grant eligibility.

State programs for water and wastewater operator certification vary widely. Programs can be structured differently with respect to certificate renewal cycles and requirements, as well as training opportunities and number of applicants. Nonetheless, a review of other states' programs shows that Tennessee currently has some of the lowest fees compared to its state counterparts, even with the proposed fee increase. For example, in Alabama, operator certification renewals cost \$80, if submitted in paper format, or \$60, if submitted online. Likewise, in Kentucky, a paper renewal is \$100, whereas an online renewal is \$50. In Georgia, the renewal fee is \$65, regardless of submittal format. In Florida, renewal fees range from \$50 to \$250, based on type of renewal and/or expiration date of the certification.

- (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.

The rule change affects certified operators and those seeking to apply for licensure as a certified operator rather than directly affecting any businesses. As stated above, small businesses would only be affected indirectly, and only if those businesses elect to assist operators in their employ by paying renewal fees.

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 may 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;

The proposed changes to the Rules Governing Water and Wastewater Certification (Chapter 0400-49-01) clarify and simplify the rules. The amendments propose to eliminate the need for applicants to have their signature notarized, to support giving examinations in written and electronic formats, and increase the renewal application fees.

- (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 Tenn. Code Ann. §§ 68-221-901 et seq., and 68-203-101 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;

Certified Water and Wastewater Operators would be directly affected by this rule. Several organizations that represent this group of individuals have urged the adoption of this rule.

- (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;

The promulgation of this rule will have a negligible effect on local government revenues, if any, but will increase the revenue available to the Fleming Training Center by approximately \$120,000 annually to serve stakeholders.

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

Alan Schwendimann
J. R. Fleming Environmental Training Center
2022 Blanton Drive
Murfreesboro, TN 37129
(615) 532-0766
Alan.Schwendimann@tn.gov

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

Lucian Geise
Senior Counsel for Legislative Affairs
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) 532-0108
Lucian.Geise@tn.gov

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

The Department is not aware of any additional relevant information.