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Sequence Number: 06-24-20
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 File Date: 6/22/2020

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Tennessee Water and Wastewater Operator Certification Board
Division:	Fleming Training Center
Contact Person:	Sherry Messick
Address:	J. R. Fleming Environmental Training Center 2022 Blanton Drive Murfreesboro, TN 37129
Phone:	(615) 898-8090
Email:	Sherry.Messick@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
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Jennifer.Katzenmiller@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Auditorium J. R. Fleming Environmental Training Center		
Address 2:	2022 Blanton Drive		
City:	Murfreesboro, Tennessee		
Zip:	37129		
Hearing Date:	August 24, 2020		
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

The Fleming Training Center is committed to the Tennessee Pledge and reopening responsibly. All individuals planning to attend this hearing are asked to follow the current recommended guidelines for social distancing, hygiene, and wearing protective equipment when appropriate.

Alternate Hearing Option (An electronic participation option is also available. If the In-Person Hearing is Prohibited or Otherwise Inappropriate the Hearing will be Electronic-Only)

Method 1:	<p>You may also join electronically.</p> <p>Join by going to this link: https://tngov.webex.com/tngov/j.php?MTID=m7ff6ffd67bff2c8a3792e1d1d082f7c8</p> <p>Meeting number (access code): 161 448 3209</p>
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	Meeting password: 5SGmw8h2RZt
Method 2:	Join by phone 1-415-655-0003 Access code: 161 448 3209 Global call-in numbers are available online at: Link for Global Call-in Numbers

Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Carl Hollis at 615-907-4597 for more information.

The Tennessee Water and Wastewater Operator Certification Board proposes to amend Chapter 0400-49-01 by adding new training requirements for people who twice fail to achieve a passing grade on the examination to become an operator. The proposed amendments will also clarify the requirements for continuing education, implement a fee for missing exams, and remove the fee language for cross connection control training registration.

An initial set of draft rules has been prepared for public review and comment. For more information, including the "DRAFT" rules and "redline" copy, please visit TDEC's website at <http://tn.gov/environment/topic/ppo-water>.

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, Fleming Training Center; Attention: Ms. Sherry Messick, J. R. Fleming Environmental Training Center, 2022 Blanton Drive, Murfreesboro, TN 37129; telephone 615-898-8090 or fax 615-989-8064. However, such written comments must be received by 4:30 PM CDT, August 24, 2020, in order to assure consideration. For further information, please contact Ms. Sherry Messick at the above address or telephone number or by e-mail at Sherry.Messick@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
0400-49-01	Rules Governing Water and Wastewater Operator Certification
Rule Number	Rule Title
0400-49-01-.02	Examinations
0400-49-01-.03	Fees
0400-49-01-.05	Definitions
0400-49-01-.10	Continuing Education

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

Amendments

Rule 0400-49-01-.02 Examinations is amended by adding a new paragraph following paragraph (8) so that the new paragraph (9) shall read as follows:

- (9) Required training.
 - (a) Any person seeking to apply to sit for a Grade III or Grade IV examination who failed to achieve a satisfactory score on two previous examinations for the same operator classification for which the person is seeking to apply shall complete 30 hours of board sanctioned comprehensive training before the Board will consider the application.
 - (b) A person seeking to apply to sit for a Grade I or Grade II examination who failed to achieve a satisfactory score on two previous examinations for the same operator classification for which the person is seeking to apply shall complete 18 hours of board sanctioned comprehensive training before the Board will consider the application.
 - (c) A person seeking to apply to sit for a Small Water Systems or a Biological/Natural Systems examination who failed to achieve a satisfactory score on two previous examinations for the same operator classification for which the person is seeking to apply shall complete 18 hours of board sanctioned comprehensive training before the Board will consider the application.

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

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

- (1) Fees for Certification
 - (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. Missed examination fee \$50
 - 3. Discount annual renewal fee for each operator certificate:
(Payment prior to February 1) \$50
 - 4. Standard annual renewal fee for each operator certificate:
(Payment from February 1 through June 30) \$100
 - (b) No application fee will be returned.
 - (c) Upon payment of an application fee and approval by the Board, an applicant may take any one scheduled examination during the following 12 months. If an applicant chooses not to take or fails to appear for the first examination offered after receiving approval, the applicant must reapply on a form approved by the Board and submit the missed examination fee to be scheduled for a subsequent exam within the established time. The reapplication must occur 60 days in advance of the examination he/she wishes to take. If an applicant does not take the examination within 12 months of the Board's approval, he/she must reapply by submitting a new application with fees in order to be considered to take a subsequent examination.
 - (d) Each year a certified operator shall submit to the Board for the following year a completed certificate renewal application and a fee for the renewal of each operator certificate he/she possesses.

Applications received prior to February 1 of each year shall be subject to discount renewal fees. Applications received February 1 through June 30 of each year shall be subject to standard renewal fees. Any person failing to meet the June 30 deadline may, within 90 days of the deadline, request that the Board grant a variance. The Board may grant a variance when the delay was caused by extenuating circumstances. A completed certificate renewal application or appropriate annual renewal fee for an expired certificate not received by the Board by June 30 shall preclude the recertification of the operator in his/her expired classification until he/she shall have fulfilled all the requirements for the issuance of an initial certificate in that classification, including the satisfactory completion of a written examination. When an operator classification is upgraded, the certificate he/she was upgraded from becomes void; and no additional fee payment is necessary until renewal.

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

Paragraph (2) of Rule 0400-49-01-.03 Fees is amended by deleting it in its entirety and substituting instead the following:

(2) Reserved.

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

Rule 0400-49-01-.05 Definitions is amended by deleting it in its entirety and substituting instead the following:

0400-49-01-.05 Definitions.

- (1) "Available" means that a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner, based on system size, complexity and the quality of either the source water or the receiving stream.
- (2) "Board" means the board of certification as described in T.C.A. § 68-221-905.
- (3) "Commissioner" and "Department" mean the Commissioner of the Tennessee Department of Environment and Conservation or his/her duly authorized representative.
- (4) "Operating Shift" is that period of time during which operator decisions that affect public health are necessary for proper operation of the system.
- (5) "Person in direct charge" as used in these rules means the person or persons expressly designated to be in direct charge and so named in writing to the Board's authorized representative by each water supply system and wastewater system, whose decisions and directions to system personnel control the manipulation of equipment and thereby determine the quality and quantity of the water supplied by a water treatment plant or a water distribution system, or the quality of the effluent from a wastewater treatment plant or the integrity of a wastewater collection system.
- (6) "Process control/system integrity decisions" means decisions regarding the manipulation of equipment, chemicals or processes that determine the quality and quantity of the water supplied by a water treatment plant or a water distribution system, or the quality of the effluent from a wastewater treatment plant or the integrity of a wastewater collection system.
- (7) "Written examination" means an examination taken in either written or electronic format.

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

Rule 0400-49-01-.10 Continuing Education is amended by deleting it in its entirety and substituting instead the following:

- (1) Completion of Continuing Education Requirements. At least once during every continuing education period each certified operator shall satisfactorily complete the required number of continuing education hours approved by the Board for the particular type of certificate he/she holds.

- (2) Continuing Education Period. The continuing education period is three calendar years and shall begin either with the date the certified operator obtained his/her certificate or the date the certified operator last satisfactorily completed the required number of continuing education hours and shall end at the conclusion of the annual continuing education term three calendar years thereafter. An annual continuing education term shall begin each year on October 1 and shall end on September 30 of the following year.
- (4) Failure to Complete Continuing Education Requirements. The failure of an operator to satisfactorily complete the required number of continuing education hours approved by the Board Secretary during his/her continuing education period shall be grounds for the denial of his/her application for the renewal of his/her certificate. An operator that fails to satisfactorily complete the required number of continuing education hours during his/her continuing education period due to extenuating circumstances may make a written request to the Board for an extension of time to do so. All requests by an operator for an extension of time to meet the continuing education requirement must be made in writing to the Board either within two months of the elapsed continuing education period or by the date of return of the operator to active employment, whichever is later. All such requests must be accompanied by complete supporting documentation of the circumstances causing the failure to meet the continuing education requirement.
- (5) Notification of Satisfactory Completion. An operator shall notify the Board Secretary upon his/her satisfactory completion of the continuing education requirement by furnishing appropriate documentation of course completion. Notification by the operator is not necessary in those cases where an agency notifies the Board Secretary of such activity.
- (6) A certified operator shall only receive credit for a continuing education course that is completed in its entirety. A certified operator attending the same continuing education course more than once in two consecutive continuing education periods shall only receive credit for the operator's first attendance.

Authority: T.C.A. §§ 68-221-901 et seq. 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: June 19, 2020

Signature: Katherine Barnes

Name of Officer: Katherine Barnes

Title of Officer: Associate Counsel

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Tre Hargett

Tre Hargett
Secretary of State

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