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Sequence Number: 07-09-23
Notice ID(s): 3686-3687
File Date: 7/14/2023

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:	Board of Water Quality, Oil, and Gas
Division:	Water Resources
Contact Person:	Karina Bynum
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 11th Floor Nashville, Tennessee 37243
Phone:	(931) 217-6638
Email:	Karina.Bynum@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:	615-532-0200 Hearing-impaired callers may use the TN Relay Service 1-800-848-0298
Email:	kathryn.reitz@tn.gov

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

Address 1:	Multimedia Room, 3 rd Floor William R. Snodgrass Tennessee Tower			
Address 2:	312 Rosa L. Parks Avenue			
City:	Nashville, Tennessee			
Zip:	37243			
Hearing Date:	09/06/2023			
Hearing Time:	11:00 AM	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT	

Alternate Hearing Option

Method 1:	Join electronically via Microsoft Teams. Join on your computer, mobile app, or room device: <u>Click here to join the meeting</u> Meeting number (access code): 286 676 527 636 Meeting password: yqqBER
Method 2:	Join by phone (audio only). 1-629-209-4396 Access code: 419 245 874#

Instructions for Microsoft Teams can be found on the TDEC Public Participation webpage.
[Click here to view the instructions](#)

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 Brian Canada at (615) 532-0660 for more information. Si le resulta difícil leer, hablar o entender inglés, TDEC puede proporcionar servicios de traducción o interpretación sin cargo. Comuníquese con Brian Canada al (615) 532-0660 para obtener más información.

The rule changes the water quality treatment volume to include uncontaminated roof runoff. The amendments to Chapter 0400-40-10 also update definitions to conform to federal rules and to be consistent with definitions in Chapter 0400-10-05 for individual permits and to provide for electronic reporting.

An initial set of draft rules has been prepared for public review and comment. The "DRAFT" rules may be accessed for review using at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/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: Department of Environment and Conservation, Division of Water Resources, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 11th Floor, Nashville, Tennessee 37243; telephone (615) 253-5321. However, such written comments must be received by 4:30 PM Central Time, September 8, 2023, to assure consideration. For further information, please contact Karina Bynum at the above address or telephone number or by e-mail at Karina.Bynum@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
0400-40-05	Individual National Pollutant Discharge Elimination System (NPDES) Permits
Rule Number	Rule Title
0400-40-05-.15	Municipal Separate Storm Sewer Systems

Chapter Number	Chapter Title
0400-40-10	National Pollutant Discharge Elimination System General Permits
Rule Number	Rule Title
0400-40-10-.01	General
0400-40-10-.02	Definitions
0400-40-10-.03	Permits
0400-40-10-.04	Municipal Separate Storm Sewer Systems

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0400-40-05
Individual National Pollutant Discharge Elimination System (NPDES) Permits

Amendments

Subparagraph (c) of paragraph (2) of Rule 0400-40-05-.15 Municipal Separate Storm Sewer Systems is amended by deleting it in its entirety and substituting instead the following:

- (c) For the purposes of this paragraph, the water quality treatment design storm is a 1-year, 24-hour storm event as defined by Precipitation-Frequency Atlas of the United States. Atlas 14. Volume 2. Version 3.0. U.S. Department of Commerce. National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent. The water quality treatment volume (WQTV) is a portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the design storm, as set forth below. SCMs must be designed, at a minimum, to achieve an overall treatment efficiency of 80% TSS removal from the WQTV. The quantity of the WQTV depends on the type of treatment provided, as established in the following table:

Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the 1-year, 24-hour design storm		
SCM Treatment Type	WQTV	Notes
infiltration, evaporation, transpiration, and/or reuse	runoff generated from the first 1 inch of the design storm	Examples include, but are not limited to, bioretention, stormwater wetlands, and infiltration systems.
biologically active filtration, with an underdrain	runoff generated from the first 1.25 inches of the design storm	To achieve biologically active filtration, SCMs must provide a minimum of 12 inches of internal water storage.
sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds	runoff generated from the first 2.5 inches of the design storm or the first 75% of the design storm, whichever is less	Examples include, but are not limited to, sand filters, permeable pavers, and underground gravel detention systems. Ponds must provide forebays comprising a minimum of 10% of the total design volume. Existing regional detention ponds are not subject to the forebay requirement.
hydrodynamic separation, baffle box settling, other flow-through manufactured treatment devices (MTDs), and treatment trains using MTDs	maximum runoff generated from the entire design storm	Flow-through MTDs must provide an overall treatment efficiency of at least 80% TSS reduction. Refer to subparagraph (2)(d) of this rule.
Alternative permanent stormwater standards that provide equal or equivalent reduction of pollutants to the above may be submitted to the Division for approval.		

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Chapter 0400-40-10
National Pollutant Discharge Elimination System General Permits

Amendments

Paragraph (2) of Rule 0400-40-10-.01 General is amended by deleting it in its entirety and substituting instead the following:

- (2) Electronic reporting. This chapter requires the submission of forms developed by the Commissioner in order for a person to comply with certain requirements, including, but not limited to, making reports, submitting monitoring results, and applying for permits. The Commissioner may make these forms available electronically and, if submitted electronically, then that electronic submission shall comply with the requirements of Chapter 0400-01-40.

Electronic submission is required when available unless waived by the Commissioner in accordance with 40 C.F.R. § 127.15, as hereby incorporated by reference as published in the July 1, 2022, edition of the Code of Federal Regulations.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Paragraph (4) of Rule 0400-40-10-.02 Definitions is amended by deleting it in its entirety and substituting instead the following:

- (4) "Geographical Area" means existing geographic or political boundaries such as:
- (a) Designated planning areas under §§ 208 and 303 of the Federal Clean Water Act;
 - (b) Sewer districts or sewer authorities;
 - (c) City, County, or State political boundaries;
 - (d) State highway systems;
 - (e) Standard metropolitan statistical areas as defined by the Office of Management and Budget; or
 - (f) Any other appropriate division or combination of boundaries.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Parts 1 and 2 of subparagraph (e) of paragraph (2) of Rule 0400-40-10-.03 Permits is amended by deleting them in their entirety and substituting instead the following:

- (e) Signatory Requirements.
- 1. Any NOI submitted to the Director shall be signed as follows:
 - (i) For a corporation, by a:
 - (I) Responsible corporate officer, a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation;
 - (II) Manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions that govern the operation of the regulated facility to assure long term environmental compliance with environmental laws and regulations; or
 - (III) Person in a corporate position to whom signatory authority has been delegated by a corporate officer.

- (ii) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - (iii) For a municipality, state, federal, or other public facility, by a:
 - (I) Principal executive officer (i.e., the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency); or
 - (II) Ranking elected official.
2. All reports or information submitted to the Commissioner shall be signed and certified by the persons identified in part 1- of this subparagraph or a duly authorized representative of that person. A person is a duly authorized representative only if:
- (i) The authorization is made in writing by the person identified in part 1 of this subparagraph;
 - (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity or an individual or position have overall responsibility for environmental matters for the company; and
 - (iii) The written authorization is submitted to the Commissioner.

Authority: T.C.A. §§ 69-3-101 et seq. and 4-5-201 et seq.

Subparagraph (c) of paragraph (2) of Rule 0400-40-10-.04 Municipal Separate Storm Sewer Systems is amended by deleting it in its entirety and substituting instead the following:

- (c) The water quality treatment design storm is a 1-year, 24-hour storm event as defined by Precipitation-Frequency Atlas of the United States. Atlas 14. Volume 2. Version 3.0. U.S. Department of Commerce. National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Springs, Maryland or its digital product equivalent. The water quality treatment volume (WQTV) is a portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the design storm, as set forth below. SCMs must be designed, at a minimum, to achieve an overall treatment efficiency of 80% TSS removal from the WQTV. The quantity of the WQTV depends on the type of treatment provided, as established in the following table:

Water Quality Treatment Volume and the Corresponding SCM Treatment Type for the 1-year, 24-hour design storm		
SCM Treatment Type	WQTV	Notes
infiltration, evaporation, transpiration, and/or reuse	runoff generated from the first 1 inch of the design storm	Examples include, but are not limited to, bioretention, stormwater wetlands, and infiltration systems.
biologically active filtration, with an underdrain	runoff generated from the first 1.25 inches of the design storm	To achieve biologically active filtration, SCMs must provide minimum of 12 inches of internal water storage.
sand or gravel filtration, settling ponds, extended detention ponds, and wet ponds	runoff generated from the first 2.5 inches of the design storm or the first 75% of the design storm, whichever is less	Examples include, but are not limited to, sand filters, permeable pavers, and underground gravel detention systems. Ponds must provide forebays comprising a minimum of 10% of the total design volume. Existing regional detention ponds are not subject to the forebay requirement.
hydrodynamic separation, baffle box settling, other flow-through manufactured	maximum runoff generated from the entire design storm	Flow-through MTDs must provide an overall treatment efficiency of at least

treatment devices (MTDs), and treatment trains using MTDs		80% TSS reduction. Refer to subparagraph (2)(d) of this rule.
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Authority: T.C.A. §§ 69-3-101 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: July 14, 2023

Signature: Stephanie A. Durman

Name of Officer: Stephanie A. Durman

Title of Officer: Deputy General Counsel, Office of General Counsel

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Tre Hargett
Secretary of State

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