

RULES
OF
TENNESSEE STATE OIL AND GAS BOARD
CHAPTER 1040-02-12
VIOLATIONS - PENALTIES - NOTICE - HEARING

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1040-02-12-.01 VIOLATIONS, PENALTIES, NOTICE, HEARING.

- (1) The Supervisor shall have the authority to assess monetary penalties as provided in paragraphs (3), (4), and (5) of this rule for any violation of this chapter, rules and regulations, or any order adopted by the Board. In making such assessment, the Supervisor shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the operator charged, the gravity of the violation, the good faith of the operator, and the operator's history of previous violations.
- (2) If, upon an inspection or investigation, the Supervisor or any of his authorized personnel shall determine that any operator is not in compliance with any standard or regulation or rule of the Board promulgated by the Board pursuant to this chapter, he shall with reasonable promptness and in no event later than six (6) months following the inspection, issue to the operator by certified mail a written citation that states the nature and, if appropriate, the location of the violation, including a reference to the provision of the chapter and the regulation alleged to have been violated. In addition, the citation shall fix a reasonable time for abatement of the violation. If the issuing Supervisor has reason to believe that such violation, or the failure to abate such violation, should result in the assessment of a penalty under paragraphs (3), (4), and (5) of this rule the citation may so state.
- (3) Any operator who has received a citation of this chapter, rules and regulations or order of the Board, promulgated pursuant to this chapter, and has failed to correct such violation within the period of correction of this citation, shall be assessed a penalty of up to one thousand (\$1,000) dollars for each day the violation exists. The period of correction may be suspended or lengthened by the assessing party upon a showing by the operator of a good faith effort to comply with the correction requirements, and that failure to comply with the correction requirements is due to factors beyond his reasonable control.
- (4) Any operator who has received a citation for a violation of this chapter, or rules and regulations, or order of the Board and such violation is specifically determined not to be of a serious nature, may be assessed a penalty of up to one thousand (\$1,000) dollars for each such violation.
- (5) Any operator who willfully or repeatedly violates the requirements of this chapter, or rules and regulations, or order of the Board promulgated pursuant to this chapter may be assessed a penalty of up to ten thousand (\$10,000) dollars for each violation.
- (6) Penalties provided for by paragraphs (3), (4), and (5) of this rule shall be imposed in the manner hereinafter provided. Whenever the Supervisor, has determined that such a penalty should be assessed against an operator, a written notice and assessment of a penalty shall be issued to the operator by certified mail, return receipt requested, stating the amount of the penalty to be assessed and the reason therefore (which may be done by reference to citations issued prior to or simultaneously with such notification).

(Rule 1040-02-12-.01, continued)

- (7) Any citation or notice and assessment of a penalty issued pursuant to this rule shall inform the operator of his rights to appeal such citation or assessment of a penalty and shall become final twenty (20) days after the receipt of such citation or notice and assessment of penalty by the operator unless the operator, within the period of twenty (20) days, shall file a written notice of appeal with the Supervisor.
- (8) If the operator files an appeal of such citation or assessment of a penalty as provided by paragraph (7) of this rule, the proceedings on such appeal shall be conducted in accordance with the provisions of the Uniform Administrative Procedures Act, as amended, compiled in Title 4, Chapter 5, and the rules of procedure of the Oil and Gas Board governing the conduct of contested cases. The Board shall afford the operator an opportunity for a hearing, after reasonable notice, The Board shall thereafter render a final order, in accordance with the provisions of §4-5-314, affirming, modifying or vacating the Supervisor's citation or assessment of a penalty. A final order rendered pursuant to this rule shall be effective upon its entry unless a later effective date shall be stated therein. A petition to stay the effective date of a final order may be filed under the provisions of §4-5-316. A petition for reconsideration of a final order may be filed under the provision of §4-5-317. Judicial review of a final order may be sought by filing a petition for review under the provisions of §4-5-322.
- (9) All penalties owed under this chapter shall be paid to the assessing Supervisor for deposit into the Treasury of the State of Tennessee and shall accrue to the State of Tennessee and may be recovered in a civil action in the name of the State of Tennessee in any Court of Record in the county where the violation is alleged to have occurred or where the operator has its principal office. (Acts 1978 (Adj. S), ch. 791, §1; T.C.A. §60-113; Acts 1984, ch. 700, §§1,2.)

Authority: T.C.A. §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule was certified May 24, 1974. Repeal and new rule filed June 29, 1982; effective August 13, 1982. Amendment filed February 7, 1986; effective; March 9, 1986. Repeal and new rule filed October 17, 2011; effective January 15, 2012.

1040-02-12-.02 RED TAGGING OF WELLS.

If, upon an inspection or investigation, the Supervisor or any of his authorized personnel shall determine that a well or tank battery is not in compliance with any standard or regulation or rule or order of the Board promulgated by the Board pursuant to this chapter, he shall with reasonable promptness and in no event later than five (5) working days following the inspection, place a "red tag" (Form WC-NOTICE THIS WELL CLOSED) on the well or tank battery, which notice shall state that drilling or plugging of the well or any further production of oil and gas from the well or tank battery is hereby ordered to be terminated until approval to proceed has been granted by the Supervisor. The notice shall further indicate the nature of the violation or threatened violation, including a reference to the provision of the chapter and the regulation which has been violated.

Authority: T.C.A. §§ 60-1-201 et seq., and 4-5-201 et seq. **Administrative History:** Original rule filed July 7, 1987; effective August 21, 1987. Repeal and new rule filed October 17, 2011; effective January 15, 2012.