

Notice  
of  
Rulemaking Hearing

Department of Environment and Conservation  
Division of Water Pollution Control

There will be public rulemaking hearings before the Tennessee Department of Environment and Conservation, Division of Water Pollution Control, acting on behalf of the Tennessee Water Quality Control Board, to consider the adoption and promulgation of rules pursuant to the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et seq., Section 69-3-105(b) of the Water Quality Control Act, and Section 68-203-101 et seq. Tennessee Environmental Protection Fund Act. The hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204, and will take place in accordance with the following schedule:

Thursday, November 1, 2007 at 5:00 p.m. CST  
Memphis Area Home Builders Association  
776 N. Germantown Parkway  
Memphis, TN 38018  
(901) 333-8699 or  
(901) 368-7939/1-888-891-8332

Wednesday, November 7, 2007 at 5:00 p.m. CST  
Cookeville Environmental Field Office  
1221 South Willow Avenue  
Cookeville, TN 38506  
(931) 432-4015/ 1-888-891-8332

Friday, November 2, 2007 at 5:00 p.m. CST  
Jackson Environmental Field Office  
1625 Hollywood Drive  
Jackson, TN 38305  
(731) 512-1300/1-888-891-8332

Thursday, November 8, 2007 at 5:00 p.m. EST  
Chattanooga Environmental Field Office  
First Floor Auditorium  
540 McCallie Avenue  
Chattanooga, TN 37402-2013  
(423) 634-5745/1-888-891-8332

Monday, November 5, 2007 at 5:00 p.m. CST  
Columbia Environmental Field Office  
2484 Park Plus Drive  
Columbia, TN 38401  
(931) 380-3371/ 1-888-891-8332

Thursday, November 15, 2007 at 5:00 p.m. EST  
Knoxville Environmental Field Office  
3711 Middlebrook Pike  
Knoxville, TN 37921-5602  
(865)594-6035/1-888-891-8332

Tuesday, November 6, 2007 at 5:00 p.m. CST  
Nashville Environmental Field Office  
711 R. S. Gass Blvd.  
Nashville, TN 37243-1550  
(615) 687-7000/1-888-891-8332

Friday, November 16, 2007 at 3:00 p.m. EST  
Johnson City Environmental Field Office  
2305 Silverdale Road  
Johnson City, TN 37601-2162  
(423) 854-5400/1-888-891-8332

Individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such contact may be in person, by writing, telephone, or other means and should be made no less than ten days prior to November 1, 2007 (or the date such party intends to review such filings) to allow time to provide such aid or services. Contact the ADA Coordinator at 1-866-253-5827 (toll free) or 1-615-532-0200 (Nashville) for further information. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

Substance of Proposed Rules

Amendments

Rule 1200-04-11-.02 Fees of Rule Chapter 1200-04-11 Environmental Protection Fund Fees is amended by deleting it in its entirety and substituting the following so that, as amended, it shall read as follows:

1200-04-11-.02 Fees

(1) Types of Fees

- (a) Application fees for permit issuance or renewal shall be paid in full upon submittal of an application. The Department will not process an application without having received the fee. No refunds of permit application fees may be made for any reason, other than as required by T.C.A. §68-203-101 et seq.
- (b) Fees for 401 Certification of permits issued by the U.S. Army Corps of Engineers shall be sent to the Department by the applicant with either a copy of or reference to the application filed with the Corps.
- (c) Permit annual maintenance fees shall be paid to the Department for every year the permit is in effect by the permittee. The annual maintenance fee shall be due within 45 days of issuance of an invoice.
- (d) Plan review fees must be submitted before the review will be conducted or approval granted.

(2) Schedule of Fees

- (a) The Application Fees for the processing of applications for 401 certifications and ARAP permits shall be as follows:
  - 1. 401 Certification of 404 permit or ARAP (Capped at \$2,500):
    - (i) Projects equal to or greater than 10 acres or equal to or greater than 1,000 feet linear \$2,500
    - (ii) Projects less than 10 acres or less than 1,000 feet linear \$1,000
    - (iii) Watershed District Projects \$ 750
    - (iv) Personal Residence or Family Farm \$ 50
    - (v) Projects that replace, restore or repair public infrastructure or remediate damages from flooding or storm events and qualify for federal disaster assistance are exempt from Rules 1200-04-11-.02(2)(a)1(i), (ii), (iii) and (iv).
- (b) Construction Stormwater permits (Capped at \$7,500):
  - 1. Projects equal to or greater than 150 acres \$7,500
  - 2. Projects equal to or greater than 50 acres and less than 150 acres \$4,000

3.	Projects equal to or greater than 5 acres and less than 50 acres	\$1,000
4.	Projects equal to or greater than 1 acre and less than 5 acres	\$ 250
5.	Projects less than 1 acre	\$ 0
(c)	Permit Annual Maintenance Fees shall be as follows for these categories of permitted activities (Capped at \$7,500):	
1.	Gravel Dredging	\$ 100
2.	Gravel Dredging for Personal Residence or Family Farm	\$ 0
3.	Major Industrial Treatment Facility:	
(i)	Flow equal to or greater than 10 MGD	\$7,500
(ii)	Flow equal to or greater than 1 MGD and less than 10 MGD	\$6,250
(iii)	Flow equal to or greater than 0.5 MGD and less than 1 MGD	\$5,000
(iv)	Flow equal to or greater than 0.1 MGD and less than 0.5 MGD	\$3,750
(v)	Flow less than 0.1 MGD	\$2,500
4.	Minor Industrial Treatment Facility:	
(i)	Flow equal to or greater than 10 MGD	\$5,000
(ii)	Flow equal to or greater than 1 MGD and less than 10 MGD	\$3,750
(iii)	Flow equal to or greater than 0.5 MGD and less than 1 MGD	\$2,500
(iv)	Flow equal to or greater than 0.1 MGD and less than 0.5 MGD	\$1,000
(v)	Flow less than 0.1 MGD	\$ 500
5.	Stormwater Discharge Permits associated with Industrial Activities:	
(i)	Facilities equal to or greater than 500 acres	\$ 700
(ii)	Facilities equal to or greater than 400 acres and less than 500 acres	\$ 650
(iii)	Facilities equal to or greater than 300 acres and less than 400 acres	\$ 600
(iv)	Facilities equal to or greater than 200 acres and less than 300 acres	\$ 550
(v)	Facilities equal to or greater than 100 acres and less than 200 acres	\$ 500

(vi)	Facilities equal to or greater than 50 acres and less than 100 acres	\$ 450
(vii)	Facilities equal to or greater than 25 acres and less than 50 acres	\$ 400
(viii)	Facilities equal to or greater than 10 acres and less than 25 acres	\$ 350
(ix)	Facilities equal to or greater than 5 acres and less than 10 acres	\$ 300
(x)	Facilities equal to or greater than 1 acres and less than 5 acres	\$ 250
(xi)	Facilities equal to or greater than 0 acres and less than 1 acre	\$ 0
6.	Sewage Treatment Facility Flow:	
(i)	Flow equal to or greater than 5 MGD	\$7,500
(ii)	Flow equal to or greater than 4.5 MGD and less than 5 MGD	\$7,250
(iii)	Flow equal to or greater than 4 MGD and less than 4.5 MGD	\$7,000
(iv)	Flow equal to or greater than 3.5 MGD and less than 4 MGD	\$6,750
(v)	Flow equal to or greater than 3 MGD and less than 3.5 MGD	\$6,500
(vi)	Flow equal to or greater than 2.5 MGD and less than 3 MGD	\$6,000
(vii)	Flow equal to or greater than 2 MGD and less than 2.5 MGD	\$5,500
(viii)	Flow equal to or greater than 1.5 MGD and less than 2 MGD	\$5,000
(ix)	Flow equal to or greater than 1 MGD and less than 1.5 MGD	\$4,500
(x)	Flow equal to or greater than 0.75 MGD and less than 1 MGD	\$4,000
(xi)	Flow equal to or greater than 0.5 MGD and less than 0.75 MGD	\$3,500
(xii)	Flow equal to or greater than 0.25 MGD and less than 0.5 MGD	\$2,500
(xiii)	Flow equal to or greater than 0.1 MGD and less than 0.25 MGD	\$1,250
(xiv)	Flow equal to or greater than 0.075 MGD and less than 0.1 MGD	\$ 750
7.	Small Mechanical Facility flow less than 0.075 MGD	\$ 500

8.	Small Non-Mechanical Facility flow less than 0.075 MGD	\$ 250
9.	Non-Discharging Facility:	
	(i) Influent flow equal to or greater than 0.5 MGD	\$3,500
	(ii) Influent flow equal to or greater than 0.1 MGD and less than 0.5 MGD	\$2,000
	(iii) Influent flow equal to or greater than 0.075 MGD and less than 0.1 MGD	\$1,000
	(iv) Influent flow less than 0.075 MGD	\$ 250
	(v) Satellite collection systems	\$1,000
	(vi) Pump and haul	\$ 250
10.	Other Waste or Wastewater Operations Requiring Permit	\$1,000
11.	General Permits (sources other than stormwater or concentrated animal feeding operation)	\$ 250
12.	Concentrated animal feeding operations covered by an individual permit	\$250
13.	Municipal Pretreatment Programs as defined in Rule 1200-04-11-.01 (2)(a):	
	(i) Large Pretreatment Program	\$5,000
	(ii) Medium Pretreatment Program	\$3,000
	(iii) Small Pretreatment Program	\$1,000
14.	Mining:	
	(i) Area equal to or greater than 500 acres	\$5,000
	(ii) Area equal to or greater than 400 acres and less than 500 acres	\$4,500
	(iii) Area equal to or greater than 300 acres and less than 400 acres	\$4,000
	(iv) Area equal to or greater than 200 acres and less than 300 acres	\$3,500
	(v) Area equal to or greater than 100 acres and less than 200 acres	\$3,000
	(vi) Area equal to or greater than 75 acres and less than 100 acres	\$2,500
	(vii) Area equal to or greater than 50 acres and less than 75 acres	\$2,000
	(viii) Area equal to or greater than 25 acres and less than 50 acres	\$1,500
	(ix) Area equal to or greater than 10 acres and less than 25 acres	\$1,000
	(x) Area equal to or greater than 5 acres and less than 10 acres	\$ 750
	(xi) Area less than 5 acres	\$ 500

(Note: Fees are based on area being mined or area not yet reclaimed.)

15.	Mining Reclamation	\$ 250
16.	Stormwater Discharge Permits for Municipal Separate Storm Sewer Systems (MS4):	
	(i) Large MS4s	\$7,500
	(ii) Medium MS4s	\$5,000
	(iii) Small MS4s	\$2,500

(d) Plan Review Fees shall apply to new facilities as well as the expansion or modification of existing facilities. If the submittal includes more than one listed category, the fee will be the sum of the fees listed for each individual category. Review of plans documents will not commence until all fees required by these rules are paid in full. Plan Review Fees shall be as follows (Capped at \$1,500):

1.	Major Industrial Wastewater Treatment Facility:	
	(i) Flow equal to or greater than 5 MGD	\$1,500
	(ii) Flow less than 5 MGD	\$1,000
2.	Minor Industrial Wastewater Treatment Facility:	
	(i) Flow equal to or greater than 0.1 MGD	\$ 500
	(ii) Flow less than 0.1 MGD	\$ 250
3.	Sewage Treatment Facility:	
	(i) Flow equal to or greater than 5 MGD	\$1,500
	(ii) Flow equal to or greater than 1MGD and less than 5 MGD	\$1,000
	(iii) Flow equal to or greater than 0 .075 MGD and less than 1 MGD	\$ 500
	(iv) Flow less than 0.075 MGD	\$ 250
4.	Collection Systems:	
	(i) Collection Lines — \$25.00 per 250 feet or portion thereof of sewage collection line excluding service laterals. Total fee not to exceed \$1,500.	
5.	Equalization Basins:	
	(i) Holding capacity equal to or greater than 5 million gallons (MG)	\$ 300
	(ii) Holding capacity equal to or greater than 1 MG and less than 5 MG	\$ 200

- (iii) Holding capacity equal to or greater than 0.075 MG and less than 1 MG \$ 100
- (iv) Holding capacity less than 0.075 MG \$ 50

6. Pumping Stations:

- (i) Design capacity equal to or greater than 5 MGD \$ 300
- (ii) Design capacity equal to or greater than 1 MGD and less than 5 MGD \$ 200
- (iii) Design capacity equal to or greater than 0.075 MGD and less than 1 MGD \$ 100
- (iv) Design capacity less than 0.075 MGD (Does not include grinder pumps for septic tanks and septic tank effluent pumps) \$ 50

7. Mining Operations:

- (i) Coal \$ 250
- (ii) Non-Coal — \$25.00 per acre, not to exceed \$1,500
- (iii) Reclamation \$ 250
- (iv) Quarries \$ 250

8. Wastewater Plant and/or Collection System Modification:

The plans review fee for modifications to wastewater plants and/or collection systems shall be 20% of the full review fee based on the category and size of the resulting facility.

(e) Delegated Plans Review Authority:

Units of local government, which have been granted plans review authority, shall pay an annual fee of \$1,000. Failure of local government to pay this fee will be cause for the revocation of plans review authority.

(3) Collection of Fees

- (a) Fees resulting from application for a permit, maintenance of a permit or plans review, shall be made Payable and Mailed to the Department of Environment and Conservation; Attention: Environmental Protection Fees — Water Pollution Control.
- (b) Payments shall be clearly identified as to the permit, application, or plans to which they apply.
- (c) Fees are to be paid in full by the due date or, if required, at time of application.

(4) Penalties

- (a) Any unpaid fee or portion thereof is subject to penalty.

- (b) For any part of any fee imposed but not paid within the specified period of fifteen (15) days of the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within fifteen (15) days after the due date shall bear interest at the maximum lawful rate from the due date to the date paid. However, the total of the penalties and interest that accrue pursuant to this paragraph shall not exceed three (3) times the amount of the original fee.
- (c) The Commissioner of Environment and Conservation may file an action in the Chancery Court of Davidson County or any Court of competent jurisdiction for a judgment in the amount owed the State under the Water Quality Control Act, Tennessee Code Annotated, Section 69-3-101 et seq.

(5) Hearings

- (a) Any person required to pay any fee specified in this rule, who disagrees with the calculation or applicability of the fee, may petition the Water Quality Control Board for a hearing. In order to perfect a hearing, the objecting party must present to the Technical Secretary of the Board, not later than fifteen (15) days after the fee due date:
  - 1. a petition for hearing, and
  - 2. the total amount of the fee.
- (b) Such hearing shall be in accordance with contested case provisions set forth in Title 4, Chapter 5, Tennessee Code Annotated.
- (c) If the fee was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the fee was presented to the Technical Secretary.

Authority: T.C.A. §§69-3-105(b) and 4-5-201 et seq. and 68-203-101 et seq.

Other Information

An initial set of draft rules has been prepared for public review and comment. Copies of these initial draft rules are available for review at the Tennessee Department of Environment and Conservation's (TDEC's) Environmental Field Offices located as follows:

Memphis Environmental Field Office  
 Suite E-645, Perimeter Park  
 2510 Mount Moriah Road  
 Memphis, TN 38115-1520  
 (901) 368-7939/1-888-891-8332

Cookeville Environmental Field Office  
 1221 South Willow Avenue  
 Cookeville, TN 38506  
 (931) 432-4015/ 1-888-891-8332

Jackson Environmental Field Office  
 1625 Hollywood Drive  
 Jackson, TN 38305

Chattanooga Environmental Field Office  
 Suite 550- State Office Building  
 540 McCallie Avenue

(731) 512-1300/1-888-891-8332

Chattanooga, TN 37402-2013  
(423) 634-5745/1-888-891-8332

Columbia Environmental Field Office  
2484 Park Plus Drive  
Columbia, TN 38401  
(931) 380-3371/ 1-888-891-8332

Knoxville Environmental Field Office  
3711 Middlebrook Pike  
Knoxville, TN 37921-5602  
(865)594-6035/1-888-891-8332

Nashville Environmental Field Office  
711 R. S. Gass Blvd.  
Nashville, TN 37243-1550  
(615) 687-7000/1-888-891-8332

Johnson City Environmental Field Office  
2305 Silverdale Road  
Johnson City, TN 37601-2162  
(423) 854-5400/1-888-891-8332

Additional review copies are available at the following library locations:

McIver's Grant Public Library  
204 North Mill Street  
Dyersburg, TN 38024-4631  
(731) 285-5032

W. G. Rhea Public Library  
400 West Washington Street  
Paris, TN 38242-0456  
(731) 642-1702

Hardin County Library  
1365 Pickwick Street  
Savannah, TN 38372-1903  
(731) 925-4314

Clarksville-Montgomery County Library  
350 Pageant Lane, Suite 501  
Clarksville, TN 37040-0005  
(931) 648-8826

Coffee County-Manchester Public  
1005 Hillsboro Highway  
Manchester, TN 37355-2099  
(931) 723-5143

LibraryArt Circle Public Library  
154 East First Street  
Crossville, TN 38555-4696  
(931) 484-6790

E. G. Fisher Public Library  
1289 Ingleside Ave.  
Athens, TN 37371-1812  
(423) 745-7782

Kingsport Public Library & Archives  
400 Broad Street  
Kingsport, TN 37660-4292  
(423) 229-9489

Lawson McGhee Library  
500 West Church Avenue  
Knoxville, TN 37902-2505  
(865) 215-8701

Nashville Public Library  
615 Church Street  
Nashville, TN 37219-2314  
(615) 862-5800

Chattanooga-Hamilton Co. Bicentennial Library  
1001 Broad Street  
Chattanooga, TN 37402-2652  
(423) 757-5320

Memphis/Shelby County Public Library-  
Main Library  
3030 Poplar Avenue  
Memphis, TN 38111  
(901) 725-8853

The "DRAFT" rules may also be accessed for review using <http://state.tn.us/environment/wpc/ppo>.

Draft copies are also available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation  
Division of Water Pollution Control  
6<sup>th</sup> Floor, L & C Annex  
401 Church Street  
Nashville, TN 37243-1535  
(615) 532-0633

Office hours for the Division's offices 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: Division of Water Pollution Control; Tennessee Department of Environment and Conservation; Attention: Mr. Garland Wiggins; 6<sup>th</sup> Floor, L & C Annex; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0633 or FAX 615-532-0686. However, such written comments must be received by the Division by 4:30 PM CST, November 26, 2007 in order to assure consideration. For further information, contact Mr. Garland Wiggins at the above address or telephone number.

The notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of August, 2007. (FS 08-19-07; DBID 705)