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## Hot Topic: Bill of Rights for Water Quality Control Act Permit Applicants

Josh Jones

*Municipal Technical Advisory Service, [jonesj@tennessee.edu](mailto:jonesj@tennessee.edu)*

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**June 19, 2008**

**BILL OF RIGHTS FOR WATER QUALITY CONTROL ACT PERMIT APPLICANTS**

**Josh Jones, Legal Consultant**

With drought affecting communities across the nation in recent years, the abundance of our state's water resources and the need to protect them has become increasingly apparent. Essential to protecting these valuable resources is a responsible, understandable and navigable regulation structure. Taking a step toward this goal, the Tennessee Legislature recently enacted protections for permit applicants under the Water Quality Control Act.

Municipal utility and public works departments commonly file Water Quality Control Act permits with the Department of Environment and Conservation, Division of Water Pollution Control. Generally, this occurs in one of three circumstances, when: (1) a municipal construction or utility project has an impact on public waterways or watersheds, (2) a municipality needs a storm-water permit as mandated by the federal National Pollutant Discharge Elimination System program, or (3) a municipal wastewater plant is renewing or modifying an existing permit under the National Pollutant

Discharge Elimination System. Traditionally, this process has been burdensome.

The new legislation, Public Chapter No. 854, amending T.C.A. Title 69, Chapter 3, attempts to ease this burden by creating the following bill of rights for permit applicants:

1. Right to assistance from the department in understanding regulatory and permit requirements;
2. Right to know the projected fees for review of applications and how any costs will be determined and billed;
3. Right to access, via the department's Web site, complete and clearly written guidance, opinions and department policies explaining the regulatory jurisdiction and requirements;
4. Right to timely completeness determinations for applications. Absent extraordinary circumstances, the commissioner will notify the applicant within 30 days that either the application is complete or there are deficiencies;

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5. Right to timely decision. Aquatic Resource Alteration Permits will be issued or denied within 90 days. Reissuance of National Pollutant Discharge Elimination System permits will be issued or denied within 180 days. New or modified National Pollutant Discharge Elimination System permits will be issued or denied within 365 days;
6. Right to appeal to the board any permit review time limits that have been violated for good cause; and
7. Right to know who will be reviewing application and time required to complete the full review.

These protections, effective May 1, 2008, will serve as a guarantee of the Water Quality Control Act's enshrinement of Tennesseans' right to unpolluted waters.

If you have any questions regarding this or any other legislative action, please contact your MTAS management consultant.

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