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Sequence Number: 04-09-12  
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# 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.

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Solid Waste Management
<b>Contact Person:</b>	Greg Luke
<b>Address:</b>	5 <sup>th</sup> Floor, L & C Tower 401 Church Street Nashville, TN 37243-1535
<b>Phone:</b>	(615) 532-0874
<b>Email:</b>	<a href="mailto:greg.luke@tn.gov">greg.luke@tn.gov</a>

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:

<b>ADA Contact:</b>	ADA Coordinator
<b>Address:</b>	12 <sup>th</sup> Floor, L & C Tower 401 Church Street Nashville, TN 37243
<b>Phone:</b>	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298.
<b>Email:</b>	<a href="mailto:Beverly.Evans@tn.gov">Beverly.Evans@tn.gov</a>

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

Address 1:	17 <sup>th</sup> Floor, L & C Tower Large Conference Room		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	06/21/2012		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Teleconferencing Location(s):** The public may teleconference the Nashville hearing at the following locations:

Address 1:	Memphis Environmental Field Office		
Address 2:	8383 Wolf Lake Road		
City:	Bartlett, Tennessee		
Zip:	38133		
Hearing Date :	06/21/2012		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Address 1:	Jackson Environmental Field Office		
Address 2:	1625 Hollywood Drive		
City:	Jackson, Tennessee		

Zip:	38305		
Hearing Date :	06/21/2012		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT
Address 1:	Chattanooga Environmental Field Office		
Address 2:	540 McCallie Avenue, State Office Bldg., Suite 550		
City:	Chattanooga, Tennessee		
Zip:	37402		
Hearing Date :	06/21/2012		
Hearing Time:	2:00 p.m.	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT
Address 1:	Knoxville Environmental Field Office		
Address 2:	3711 Middlebrook Pike		
City:	Knoxville, Tennessee		
Zip:	37921		
Hearing Date :	06/21/2012		
Hearing Time:	2:00 p.m.	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT
Address 1:	Johnson City Environmental Field Office		
Address 2:	2305 Silverdale Pike		
City:	Johnson City, Tennessee		
Zip:	37601		
Hearing Date :	06/21/2012		
Hearing Time:	2:00 p.m.	<input type="checkbox"/> CST/CDT	<input checked="" type="checkbox"/> EST/EDT

**Additional Hearing Information:**

The Tennessee Solid Waste Disposal Control Board has initiated this rulemaking process to make revisions to the Solid Waste Processing and Disposal regulations concerning waste reduction. The proposed amendments eliminate conflicts and confusion between statutory language and the existing rule and will help the regulated community to understand waste reduction. The amendments also bring improvements and consistency in solid waste planning and infrastructure development across the state that would be useful for industry and business. Solid waste planning. This planning is essential for local governments to have needed infrastructure to attract industry, meet their waste reduction goals, and protect the health and welfare of their citizens. These amendments also establish a timeframe for developing a plan for the elimination or conversion to manned convenience centers of county public collection receptacles.

The Division has prepared a redline version of this notice of the Notice of Rulemaking Hearing to aid public review and comment on this notice. Copies of these initial draft rules (and its redline version) 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  
8383 Wolf Lake Drive  
Bartlett, TN 38133  
(901) 371-3000/ 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  
(731) 512-1300/ 1-888-891-8332

Chattanooga Environmental Field Office  
Suite 550 - State Office Building  
540 McCallie Avenue  
Chattanooga, TN 37402-2013  
(423) 634-5745/ 1-888-891-8332

Columbia Environmental Field Office  
1421 Hampshire Pike  
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

The redline version of this Notice of Rulemaking Hearing can be accessed for review using <http://tn.gov/environment/swm/ppo>.

Copies are available for review at the Nashville Central Office (see address below).

Tennessee Department of Environment and Conservation  
Division of Solid Waste Management  
5<sup>th</sup> Floor, L&C Tower  
401 Church Street  
Nashville, Tennessee 37243-1535  
(615) 532-0780

Office hours for the Division's offices are from 8:00 AM to 4:30 PM, Monday through Friday (excluding holidays). Appointments should be made for all file reviews.

Oral or written comments are invited at the hearing. Additionally, written comments may be submitted prior to or after the public hearing to: Division of Solid Waste Management; Tennessee Department of Environment and Conservation; Attention: Mr. Greg Luke; 5<sup>th</sup> Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0874 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CDT, June 29, 2012, in order to assure consideration. For further information, please contact Mr. Greg Luke at the above address or telephone number or by e-mail at [greg.luke@tn.gov](mailto:greg.luke@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
0400-11-01	Solid Waste Processing and Disposal
Rule Number	Rule Title
0400-11-01-.09	Waste Reduction and Planning
0400-11-01-.10	Convenience Centers/County Public Collection Receptacles

(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 0400-11-01  
Solid Waste Processing and Disposal

Amendments

Rule 0400-11-01-.09 Waste Disposal Reduction Goal is amended by deleting it in its entirety and replacing it with a new rule so that, as amended, the new rule shall read as follows:

0400-11-01-.09 Waste Reduction and Planning

(1) General Purpose

- (a) The goal of the state is to reduce by twenty-five percent (25%) the amount of solid waste disposed of at municipal solid waste disposal facilities and incinerators by December 31, 2003, as measured on a per capita basis within Tennessee by weight. The goal shall also apply to each municipal solid waste region; but does not apply to individual disposal facilities or incinerators. Individual disposal facilities or incinerators are used only as measurement locations for assessing the achievement of a region's waste reduction efforts. As an alternative to calculating the waste reduction goal on a per capita basis, regions shall have the option of calculating the goal on an economic growth basis using the method prescribed by the Department and approved by the Municipal Solid Waste Advisory Committee.
- (b) The Department may consider a variety of options that a region shall take into account in meeting the twenty-five percent (25%) goal. As used in rule, 0400-11-01-.09, "municipal solid waste" (MSW) means any garbage, refuse, industrial lunchroom or office waste, household waste, household hazardous waste, yard waste and any other material resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities which are required to be disposed of in a Class I landfill, as defined in regulations adopted pursuant to T.C.A. Title 68, Chapter 211; provided, that "municipal solid waste" does not include the following:
  1. Radioactive waste;
  2. Hazardous waste as defined in T.C.A. § 68-212-104;
  3. Infectious wastes;
  4. Materials that are being transported to a facility for reprocessing or reuse; provided further, that reprocessing or reuse does not include incineration or placement in a landfill; and
  5. Industrial waste which may include office, domestic or cafeteria waste, managed in a privately owned solid waste disposal system or resource recovery facility, if such waste is generated solely by the owner of the solid waste disposal system or resource recovery facility.

(2) Waste Reduction

- (a) State Solid Waste Plan. The Department shall prepare a statewide solid waste plan to be used as guidance in achieving the statewide waste reduction goal. This plan shall be reviewed and if needed updated every five years to account for any new available technologies.
  1. The plan shall identify current, preferred waste reduction and recycling practices to assist the State and the solid waste regions to effectuate their solid waste plans.
  2. Best Management Practices. The Department shall prepare waste reduction and recycling best management practices based on the state solid waste plan that local governments will implement as needed in sum or in part to attain the statewide goal.

3. Preferred Waste Reduction Hierarchy. The Department shall, based on the most current statewide solid waste plan, prepare a preferred hierarchy of waste reduction methodologies. Hierarchy shall be considered for determining qualitative equivalence in regional and local government solid waste programs.
- (b) Waste Reduction Methods. The following restrictions and guidance shall be used to evaluate waste reduction methodologies implemented by local governments and their programs.
1. Landfill Bans. Due to the dynamic nature of solid waste, waste streams, and its infrastructure to manage these waste streams, the variety and availability of local markets, local geography and topography also vary, local governments are best suited to design, implement, and manage landfill bans and material redirection at the point of collection.
  2. Class III and Class IV materials. Materials received at a Class III or Class IV landfill are not considered as waste reduction unless the materials are recycled or used for other approved beneficial use activities.
  3. Composting of "municipal solid waste". Only the portion of composted municipal solid waste that is sold or beneficially used may be counted as waste reduction towards the goal.
  4. Mulching of "municipal solid waste". Only the portion of mulch made from municipal solid waste that is sold or beneficially used may be counted as waste reduction towards goal.
  5. Recycling. Recycling constitutes a method of waste reduction so long as the recovered materials are marketed for recycling, or are stored for recycling at a solid waste management facility and at least seventy-five percent (75%) of the stored material must be marketed within the succeeding twelve (12) months. The following processes shall not be considered as marketing of recyclable materials nor counted toward the goal:
    - (i) Collection or material handling in preparation for buyers pending market.
    - (ii) Storage of unprocessed or processed materials. Unprocessed municipal solid waste is not considered being recyclable pending market.
  6. Source Reduction of "municipal solid waste". Process modifications, feedstock substitutions or improvements, various housekeeping and management practices, increases in the efficiency of machinery that decrease the overall amounts residual materials affect the amount of materials destined for final disposal. As source reduction increases the disposal amount should reflect a proportional decrease.
  7. Energy recovery and production. Materials redirected for energy recovery and production shall be considered waste reduction.
    - (i) To calculate the tons of waste reduction the following formula shall apply:  

$$T^i - T^o = T^d$$
 Where:  
 $T^i$  = tons of municipal solid waste material input into the energy recovery system;  
 $T^o$  = tons of residual material output from the energy recovery system sent for disposal; and  
 $T^d$  = tons diverted for energy recovery.
    - (ii) Waste incinerated where the primary purpose is not energy recovery is not considered waste reduction.
    - (iii) Residuals from wood wastes reduced in a pit burner or air curtain destructor is not considered waste reduction unless diverted from disposal or otherwise beneficially used in accordance with the Department's beneficial use policy.

8. Problem waste diversion. The diversion of waste tires, used oil, lead-acid batteries, paints and other problem waste, as determined and identified by the Department, from a Class I disposal facility for recycling constitutes waste reduction.
9. The Department shall evaluate new technologies, as they are presented to the Department, to determine the applicability towards waste reduction efforts for the regions in meeting the goal.

(3) Comprehensive Integrated Municipal Solid Waste Management Planning

- (a) The Department shall develop a comprehensive integrated municipal solid waste management plan, hereafter the Plan, for the State based on component requirements in T.C.A. § 68-211-815 and that will serve as a master plan for the State and its local governments in the management of statewide integrated solid waste systems. This plan shall be reviewed every five years and, if needed, updated accordingly based on new technologies, resources, stakeholders, etc. available.
- (b) The Plan shall be divided into the following major sections. These sections shall provide and describe in detail how the Plan shall be implemented.
  1. Infrastructure, Demographic and Geological Overview
  2. Solid Waste Plan
  3. Waste Reduction Plan
  4. Disaster Debris Management Plan
  5. Outreach and Education Plan
  6. Funding, Responsibilities, and Administration Plan
- (c) At a minimum, each plan and revised plan submitted by a municipal solid waste region shall include the following:
  1. Demographic information;
  2. A current system analysis of:
    - (i) Waste streams, including data concerning types and amounts generated;
    - (ii) Collection capability, including data detailing the different types of collection systems and the populations and areas which receive and do not receive such services;
    - (iii) Disposal capability, including an analysis of the remaining life expectancy of landfills or other disposal facilities;
    - (iv) Costs, using a full-cost accounting model developed by the commissioner, including costs of collection, disposal, maintenance, contracts and other costs; and
    - (v) Revenues, including cost reimbursement fees, appropriations and other revenue sources;
  3. Adoption of the uniform financial accounting system required by T.C.A. § 68-211-874;
  4. Anticipated growth trends for the next five-year period;
  5. Anticipated waste capacity needs;

6. Planned capacity assurance, including descriptions of planned or needed facilities;
  7. A recycling plan, including a description of current public and private recycling efforts and planned efforts to enhance recycling within the county or region;
  8. A plan for the disposal of household hazardous wastes;
  9. Adoption of uniform reporting requirements as required by this part;
  10. A description of waste reduction and recycling activities designed to attain the goal required by T.C.A. § 68-211-861;
  11. A description of education initiatives aimed at businesses, industries, schools, citizens and others, which addresses recycling, waste reduction, collection and other goals of this part;
  12. An evaluation of multi-county solid waste disposal region options with an explanation of the reasons for adopting or failing to adopt a multi-county regional approach;
  13. A timetable for implementation of the plan;
  14. A description of the responsibilities of the various participating jurisdictions;
  15. A certification from the region's title 68, chapter 211, part 9 solid waste authority, if such an authority has been formed, or if no such authority has been formed, the county legislative body of each county in the region that they have reviewed and approved of the region's plan and/or revised plan;
  16. A plan for managing solid waste generated as a result of disasters or emergencies based, in part, upon the FEMA 325 Public Assistance Program; and
  17. Any other information as the commissioner may deem relevant to the implementation of this part.
- (d) Each county shall develop a comprehensive integrative municipal solid waste management plan in accordance with and consistent with the Plan noted in this rule. This plan shall be designed based upon all resources within the county.
  - (e) Each municipal solid waste region shall compile and develop a comprehensive integrated municipal solid waste management plan in accordance with and consistent with the Plan noted in this rule and from the county plans within the region.
  - (f) Municipalities may elect to develop an integrated municipal solid waste management plan provided that they meet the same requirements as the county as described by this rule.
  - (g) When the State approves and sets a new municipal solid waste goal, to implement the goal, each local government and region with an integrated municipal solid waste management plan developed under this rule shall develop and submit a plan update in the format and methodology described by the Department. These local governments and regions shall be given a minimum of one year to prepare major updates for their plan.
  - (h) All local governments and the municipal solid waste regions developing plans under this rule must submit such plan to the Department for review and approval. Approval by the Department shall deem that the submitted plan is consistent with the Plan described in this rule.
  - (i) The Department, with funds available, may provide funding or technical assistance to assist local governments and regions in this update process.
  - (j) Routine updates to the solid waste region's plan shall be submitted by March 31 of each year for the immediate preceding calendar year in a format prescribed by the Department.

- (k) Failure to complete an update to the plan or to submit the plan shall subject the solid waste region or local government to possible sanctions described in this rule under the header "Enforcement" and sanctions pursuant to T.C.A. §§ 68-211-816 and 68-211-871.
  - (l) The twenty-five percent (25%) goal applies to only the waste that has been going to Class I landfills or municipal solid waste incinerators. Measurements of waste are to be based on the amount of waste entering a disposal facility prior to combustion or landfilling. Materials recovered or collected for recycling at these facilities prior to combustion or landfilling shall be weighed and deducted from the total amount being disposed.
  - (m) The region shall present its calculation of the twenty-five percent (25%) reduction on a per capita basis or the economic growth basis to be prescribed by the Department in accordance with paragraph (1) of this rule.
  - (n) The region plan shall utilize the base year of 1995 for measuring waste reduction unless a region can demonstrate that the 1995 data is clearly in error. A region may receive credit toward the waste reduction goal from recycling and source reduction programs prior to 1995, but no earlier than 1985. The region shall notify in writing the Division Director of such an error and request approval of any adjustment to the 1995 data.
  - (o) By March 31 of each year, each region shall submit an annual report to the Division. Pursuant to T.C.A. §§ 68-211-863 and 68-211-871, such reports shall include, at a minimum, the amount and type of recycled materials collected in the region.
- (4) Qualitative Assessment Methods
- (a) An assessment method shall be developed by the Department of Environment and Conservation and approved by the Municipal Solid Waste Advisory Committee. This assessment will be applied to Municipal Solid Waste Planning Regions that failed to meet the twenty-five percent (25%) waste reduction and diversion goal stated in T.C.A. § 68-211-861(a) according to the Annual Progress Report submitted to the Division. The qualitative assessment will objectively assess the activities and expenditures of both the Municipal Solid Waste Planning Region and the local governments in the region to determine whether the region's program is qualitatively equivalent to other regions that meet the goal and whether the failure is due to factors beyond the control of the region.
  - (b) The qualitative assessment shall be done in the following two steps:
    1. The Department shall use the waste and diversion reported by the solid waste region for the most current reporting period to determine whether in that year twenty-five percent of the solid waste generated in that year was either diverted from class I facilities or recycled. If it was, the region meets the qualitative assessment and the department does not proceed to the next step.
    2. The Department shall evaluate the programs in those regions that do not satisfy subparagraphs (3)(l) and (3)(m) of this rule to determine if they are qualitatively equivalent to those that did meet the 25% recycling and diversion goal by evaluating at least the following solid waste program activities for the most current reporting period, giving the first two items the greatest weight:
      - (i) waste reduction and recycling programs and systems;
      - (ii) waste diversion programs and systems;
      - (iii) solid waste education programs and systems;
      - (iv) waste collection and handling systems; and
      - (v) solid waste program budgets and staffing.

The methodology shall make comparisons between regions that are as similar as possible in terms of population and socio-economic level to the region that failed to meet the goal.

Authority: T.C.A. §§ 68-211-101 et seq., 68-211-801 et seq. and 4-5-201 et seq.

Paragraph (1) of Rule 0400-11-01-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current paragraph and substituting the following language, so that, as amended, the new paragraph shall read as follows:

(1) Purpose

- (a) This rule shall establish the minimum level of service which every county must provide in order to assure that all residents of a county are provided with collection and disposal service.
- (b) This rule shall establish minimum standards for the design and operation of convenience centers if such service is selected by a County.
- (c) This rule shall establish requirements for operation and use of county public collection receptacles for municipal solid waste.

Paragraphs (5) and (6) of Rule 1200-01-07-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting them in their entirety and replacing them with the following new paragraph so that, as amended, the new paragraph shall read as follows:

(5) Requirements for Operation and Use of County Public Collection Receptacles for Municipal Solid Waste

- (a) Each county which maintains and uses receptacles for the collection of municipal solid waste from the general public at sites separate from a convenience center, shall develop a plan for the elimination or conversion to manned convenience centers as defined in paragraph (2) of Rule 0400-11-01-.01 by June 30, 2015. The county will include the following information as part of the municipal solid waste planning region's annual report (which is submitted to the Division) until said collection receptacles are eliminated or converted:
  - 1. The number of receptacles in the County by location;
  - 2. The location of all receptacles by street address and geo-code (longitude and latitude);
  - 3. Collection times for such receptacles; and
  - 4. Operation procedures and security measures adopted and enforced to maintain and service the receptacles and to ensure the protection of public health and safety. Such information required by this part must be in the form of a narrative manual and meet the minimum requirements in subparagraph (b) of this paragraph.
- (b) Minimum operation and security requirements shall be as follows:
  - 1. All containers must be emptied at a minimum of once every 7 days, except the commissioner may provide an extension of time for severe weather or other emergency conditions.
  - 2. Litter and/or solid waste outside the receptacles must be controlled. Such wastes must be removed at a minimum frequency of at least once every 7 days.
  - 3. Receptacles must be maintained and managed in a manner to minimize disease vectors.
  - 4. Receptacles must be located on an all weather surface (such as gravel).

- (c) Per T.C.A. § 68-211-851, as amended, counties which did not have receptacles in place as of January 1, 1996 or which subsequent to such date discontinues use of any receptacle authorized in this paragraph, shall be prohibited from installing or maintaining additional receptacles.

Authority: T.C.A. §§ 68-211-101 et seq., 68-211-801 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: 04/11/2012

Signature: \_\_\_\_\_

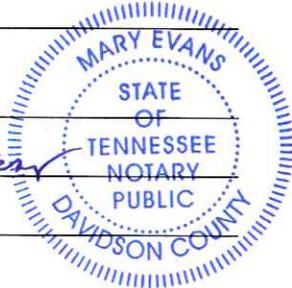
Name of Officer: Glen Pugh

Title of Officer: Solid Waste Program Manager

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_



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Filed with the Department of State on: \_\_\_\_\_

04/11/2012

Tre Hargett

Tre Hargett  
Secretary of State

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