

Rulemaking Hearing Rules  
of  
Tennessee Department of Environment and Conservation  
Division of Solid Waste Management

Chapter 1200-1-7  
Solid Waste Processing and Disposal

Amendments

Paragraph (2) of rule 1200-1-7-.01 Solid Waste Disposal Control System: General is amended by adding the following definition into the current list alphabetically:

“Putrescible Wastes” means solid wastes that contain organic matter capable of being decomposed by micro-organisms and of such a character and proportion as to be capable of attracting or providing food for birds.

Regulatory Authority: T.C.A. §§ 68-211-102(a), 68-211-105(b), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), and 68-211-111(d)(1).

Subpart (i) of part 1 of subparagraph (c) of paragraph (1) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by adding a new item (XXIV) to read as follows:

(XXIV) The owners or operators proposing a new solid waste processing facility that handles putrescible wastes located within 10,000 feet (3,048 meters) of any airport runway end used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway end used only by piston-type aircraft must include in the permit-by-rule notification a demonstration that the facility does not pose a bird hazard to aircraft. The owners or operators proposing a new solid waste processing facility that handles putrescible wastes located within a five-mile radius of any airport runway end used by turbojet or piston-type aircraft must notify the affected airport and the appropriate Federal Aviation Administration (FAA) office.

Item (II) of subpart (v) of part 1 of subparagraph (c) of paragraph 1 of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing and Disposal Facilities is amended by deleting the current item (II) and substituting the following language:

(II) The facility is constructed, operated, maintained, and closed in a manner consistent with items II, III, IV, V, VI, VII, VIII, IX, X, XI, XII, XIII, XIV, XV, XVI, XVIII, XIX, XX, XXI, and XXIV of rule 1200-1-7-.02(1)(c)1(i).

Subpart (ii) of part 2 of subparagraph (c) of paragraph (1) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by adding a new item (VIII) to read as follows:

(VIII) A design plan attached indicating boundaries of the site and all on-site appurtenances.

Part 2 of subparagraph (c) of paragraph (1) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by adding a new subpart (iii) to read as follows:

(iii) The notification under subpart (ii) shall be revised within 30 days of a change in facility ownership with new information as necessary but at a minimum to include changes to subitems (III) and (IV) along with payment of the fee specified at 1200-1-7-.07(2)(b)6.

Subparagraph (c) of paragraph (1) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by adding a new part 3 to read as follows:

3. Duty to Comply - The permittee must comply with all conditions of this permit-by-rule, unless otherwise authorized by the Department in writing. Any permit-by-rule noncompliance constitutes a violation of the Act and is grounds for the assessment of civil penalties by the Commissioner.

Subpart (i) of part 1 of subparagraph (e) of paragraph (3) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by deleting the current subpart (i) and substituting the following language:

- (i) An applicant shall give public notice, as prepared and directed by the Commissioner, that the following actions have occurred:
  - (I) A permit application as described in subparagraph (a) of this paragraph has been received;
  - (II) A draft permit has been prepared under part (c)3 of this paragraph or a new draft permit prepared under subparagraph (5)(a) or (5)(b);
  - (III) A public hearing has been scheduled under subparagraph (g) of this paragraph; or
  - (IV) A change of ownership.

Part 1 of Subparagraph (a) of paragraph (4) of rule 1200-1-7-.02 Permitting of Solid Waste Storage, Processing, and Disposal Facilities is amended by deleting the current part 1 and substituting the following language to read:

1. Duty to Comply - The permittee must comply with all conditions of this permit, unless otherwise authorized by the Department in writing. Any permit noncompliance constitutes a violation of the Act and is grounds for termination, revocation and/or reissuance, or modification of the permit and/or the assessment of civil penalties by the Commissioner.

Regulatory Authority: T.C.A. §§ 68-211-102(a), 68-211-105(b), 68-211-105(c), 68-211-106(a)(1), 68-211-107(a), and 68-211-111(d)(1).

Subparagraph (j) of paragraph (3) of rule 1200-1-7-.03 Requirements for Financial Assurance is amended by adding a new part 5 to read as follows:

5. All forfeited funds shall be deposited in a special departmental account known as the “solid waste disposal site restoration fund” for use by the Commissioner as set forth in T.C.A. § 68-211-116.

Regulatory Authority: T.C.A. §§ 68-211-111(d)(1) and 68-211-116.

Subitem IV of item (I) of subpart (iv) of part 6 of subparagraph (a) of paragraph (7) of rule 1200-1-7-.04 Specific Requirements for Class I, II, III, and IV Disposal Facilities is amended by deleting the current item IV and substituting the following language:

- IV. Include provisions for identifying all domestic and commercial water use within an area determined by the Commissioner.

Subparagraph (g) of paragraph (8) of rule 1200-1-7-.04 Specific Requirements for Class I, II, III, and IV Disposal Facilities is amended by adding a new part 8 to read as follows:

8. If the dump closed has been closed on-site after an order has been issued by the Commissioner or Board and become final pursuant to T.C.A. § 68-211-113 or 4-5-322, the Commissioner may present for recording in the office of the county register an instrument in the chain of title that will in perpetuity notify any person conducting a title search that the land has been used as a disposal facility.

Regulatory Authority: T.C.A. §§ 68-211-107(a) and 68-211-111(d)(1).

Subparagraph (a) of paragraph (2) of rule 1200-1-7-.07 Fee System For Non-Hazardous Disposal and Certain Non-Hazardous Processors of Solid Waste is amended by deleting the current subparagraph (a) and substituting the following language:

- (a) Any person who applies for a permit, permit-by-rule, or waste evaluation pursuant to part (1)(b)3 of this rule, shall pay the specified amount in subparagraph (b) of this paragraph with the application.

Regulatory Authority: T.C.A. §§ 68-203-103(a)(1), 68-203-103(b)(3), 68-211-107(a) and 68-211-111(d)(2).

Subparagraph (a) of paragraph (3) of rule 1200-1-7-.09 Waste Disposal Reduction Goal is amended by deleting the current subparagraph (a) and substituting the following language:

- (a) A region's waste reduction plan shall be consistent with the guidelines issued by the Division . Such a plan shall explain the region's waste reduction methods. The region may use any combination of methods; however, the following methods or practices will not be considered in the calculation for the region's waste reduction plan:
  1. Incineration;
  2. Unmarketed municipal solid waste compost;
  3. Recovered materials (other than problem wastes) stored for recycling without being marketed as prescribed by rule 1200-1-7-.09(2)(b)3; and
  4. Illegal or unauthorized storage or disposal of municipal solid waste.

Subparagraphs (d) and (e) of paragraph (3) of rule 1200-1-7-.09 Waste Disposal Reduction Goal are amended by deleting the current subparagraphs (d) and (e) and substituting the following language:

- (d) 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.
- (e) 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.

Rule 1200-1-7-.09 Waste Reduction Goal is amended by adding a new paragraph (4) to read as follows:

(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 2003 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 subparagraph (2)(a) above 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.

Regulatory Authority: T.C.A. §§ 68-211-111(d)(2) and 68-211-861.

Subparagraph (a) of paragraph (6) of rule 1200-1-7-.10 Convenience Centers/County Public Collection Receptacles is amended by deleting the current subparagraph (a) and substituting the following language:

(a) By March 31 of each year, 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 include the following information as part of the Solid Waste Region’s annual report (which is submitted to the Division ):

1. The number of receptacles in the County;
2. The location of all receptacles;
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 in this part must be in the form of a narrative manual and meet the minimum requirements in subparagraph (b).

Regulatory Authority: T.C.A. §§ 68-211-111(d)(2) and 68-211-851(a).

Part 3 of subparagraph (a) of paragraph 4 of rule 1200-1-7-.11 Requirements For Compost and Composting Facilities is amended by deleting the current part 3 and substituting the following language:

3. Compost shall be classified as either Type A Compost or Type B Compost according to its metal content characterization as shown in this part. Metal concentrations in finished compost shall not exceed the concentrations shown in Type B Compost below:

METAL CONSTITUENT	TYPE A COMPOST <u>TOTAL METAL</u> CONCENTRATION (PPM)	TYPE B COMPOST <u>TOTAL METAL</u> CONCENTRATION (PPM)
Arsenic	10	16
Cadmium	3	39
Chromium	210	1200
Cobalt	200	200
Copper	300	1500
Lead	100	250
Mercury	1.0	17
Molybdenum	10	18
Nickel	50	420
Selenium	3.0	36
Zinc	500	2800

Subpart (ii) of part 1 of subparagraph (c) of paragraph (4) of rule 1200-1-7-.11 Requirements for Compost and Composting Facilities is amended by deleting the current subpart (ii) and substituting the following language to read:

- (ii) In addition to (i) of this part all compost utilizing the solid waste classification at rule 1200-1-7-.11(4)(a)1(iii), shall be analyzed at intervals of every 20,000 tons of compost produced or every three months, whichever comes first, for:

Parameter	Unit	Method
All metals of Rule 1200-1-7-11(4)(a)3.	mg/kg of dry Weight	SW-846 Method
Foreign Matter	%	See 4 Below **
Fecal Coliform	most probable number	SM 9221 ***

Volatile Residue	mg/l	See 5 Below **
PCB	part per million*	SW-846 Method

\* (detection above 1 ppm, the Commissioner shall be immediately notified by the operator and the source identified)

\*\* Methods for Chemical Analysis of Water and Wastes (EPA-600/4-79-020), 1983.

\*\*\* Standard Methods For the Examination of Waste and Wastewater, 21<sup>st</sup> Edition, 2005.

Regulatory Authority: T.C.A. §§ 68-211-102(a), 68-211-107(a), and 68-211-111(d)(1).

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

\_\_\_\_\_  
 Mike Apple  
 Program Director  
 Division of Solid Waste Management

\_\_\_\_\_  
 Glen Pugh  
 Solid Waste Program Manager  
 Division of Solid Waste Management

The roll-call vote by the Tennessee Solid Waste Disposal Control Board on these rulemaking hearing rules was as follows:

<u>NAME OF BOARD MEMBER</u>	Aye	No	Abstain	Absent
Melissa Bryant	_____	_____	_____	_____
Wilton Burnett, Jr.	_____	_____	_____	_____
Kenneth Donaldson	_____	_____	_____	_____
J. Knox Horner	_____	_____	_____	_____
Dr. Gregory Nail	_____	_____	_____	_____
James P. Newman	_____	_____	_____	_____
Jack O'Grady	_____	_____	_____	_____
Sherry Sloan	_____	_____	_____	_____
David Wallace	_____	_____	_____	_____

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and readopted, as modified, by the Tennessee Solid Waste Disposal Control Board on the 2<sup>nd</sup> day of May, 2006.

Further, I certify that the provisions of T.C.A. 4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking hearing has been filed in the Department of State on the 18<sup>th</sup> day of August, 2005 and such notice of rulemaking hearings having been published in the September 15, 2005 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 2<sup>nd</sup> day of November, 2005. These rules were originally adopted by the Solid Waste Disposal Control Board on the 6<sup>th</sup> day of December, 2005.

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Mike Apple, Technical Secretary  
Tennessee Solid Waste Disposal Control Board

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James P. Newman, Chairman  
Tennessee Solid Waste Disposal Control Board

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Notary Public

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

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Paul G. Summers  
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 23rd day of May, 2006 and will become effective on the 6th day of August, 2006.