

**Department of State
Division of Publications**

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Sequence Number: 07-16-09
Rule ID(s): 4256
File Date: 07/23/2009
Effective Date: 10/21/2009

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Division of Remediation
Contact Person:	Robert L. Powell
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1200-01-13	Hazardous Substance Remedial Action
Rule Number	Rule Title
1200-01-13-.13	List of Inactive Hazardous Substance Sites

(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>)

Amendment

1200-01-13

Hazardous Substance Remedial Action

Rule 1200-01-13-.13 List of Inactive Hazardous Substance Sites is amended by deleting the following site from the list, such deletion being made in a manner so that the entire list remains in numerical order.

Site Number

Site Name

79-519

Tulane Road
Memphis, TN

Statutory Authority: T.C.A. § 68-212-206(e) and § 68-212-215(e).

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Atchison	X				
John Barker				X	
Bob Booker	X				
Elaine Boyd	X				
Melissa H. Bryant				X	
Kevin Davis	X				
Kenneth H. Donaldson	X				
Gregory N. Nail	X				
Sherry Sloan	X				
Julia L. Williams				X	
Glenn Youngblood	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Solid Waste Disposal Control Board (board/commission/ other authority) on 04/28/2009 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 12/30/08

Notice published in the Tennessee Administrative Register on: 01/15/09

Rulemaking Hearing(s) Conducted on: (add more dates). 02/19/09

Date: 4/28/09

Signature: [Handwritten Signature]

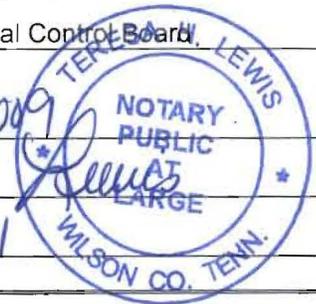
Name of Officer: Kenneth H. Donaldson [Handwritten Initials]

Title of Officer: Chairman of Solid Waste Disposal Control Board

Subscribed and sworn to before me on: April 28, 2009

Notary Public Signature: [Handwritten Signature]

My commission expires on: Nov. 28, 2011



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.

[Handwritten Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter
7-21-09
 Date

Department of State Use Only

Filed with the Department of State on: _____

7/23/09

Effective on: _____

10/21/09

See Hargett by 2/10/09, PK

Tre Hargett
Secretary of State

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PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

The public hearing to receive comments from the general public regarding the deletion of the Tulane Road (79-519) site from the List of Inactive Hazardous Substance Sites was held at the Tennessee Department of Environment and Conservation, Memphis Field Office Conference Room in Memphis, Tennessee at 6:00 p.m. Division representatives were present at the meeting. There were attendees but no formal comments were received. In addition, no written comments were received during the comment period.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

There are no small businesses that would be impacted by this rulemaking.

- (2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

There are no small businesses that would be impacted by this rulemaking, therefore, no reporting or recordkeeping would be required of any small businesses.

- (3) A statement of the probable effect on impacted small businesses and consumers.

There are no small businesses that would be impacted by this rulemaking, therefore, no impact.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Department and the Board are required by statute, through rulemaking, to list on the List of Inactive Hazardous Substance Sites any sites that meet the criteria for listing and which the Department expects to expend funds. There is no alternative method provided by the statute for adding or removing sites from the list. This rulemaking is being taken to specifically remove a site from the list, therefore, there is no impact to small businesses.

- (5) A comparison of the proposed rule with any federal or state counterparts.

This rulemaking is somewhat similar to the Federal action of placing or removing a site on the EPA National Priorities List of sites. There are no other state counterparts.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There are no small businesses impacted by this rulemaking.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking amends Rule 1200-01-13-.13 to revise the list of hazardous substance sites in Tennessee that are eligible for investigation and remedial action under the State's Hazardous Waste Remedial Action Fund. This amendment deletes one site from the list as a result of investigation and/or remedial actions performed by the State Program, the liable parties, etc. since the original list was promulgated.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rulemaking is authorized by Section 68-212-206(e) and Section 68-212-215(e) of the Tennessee Hazardous Waste Management Act of 1983. While there is no federal law or regulation that mandates this Law or these rules, one of the primary purposes of the State Fund and implementing program is to provide the necessary matching State funds to enable the State to match expenditures of federal funds pursuant to the Federal Superfund Law (the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, Section 104(c) to clean up hazardous substance sites. (See T.C.A. Section 69-212-205(c).)

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Those persons most directly affected by this rule amendment are the property owners of the site being deleted from the list of Inactive Hazardous Substance Sites.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Promulgation of these amendments and updates to the list of eligible sites reflects the efforts of the State's Hazardous Substance Sites Remedial Action Program. No direct impact on state or local revenues is anticipated.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Robert L. Powell, Enforcement Manager
Division of Remediation
4th Floor L & C Annex
401 Church Street
Nashville, Tennessee 37243-1538

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director

Department of Environment and Conservation

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel
Department of Environment and Conservation
20th Floor L & C Tower
Nashville, Tennessee 37243-1548
(615) 532-0131

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.