

**Department of State**  
**Division of Publications**  
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 Nashville, TN 37243  
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**For Department of State Use Only**

Sequence Number: 11-09-11  
 Rule ID(s): 5070-5071  
 File Date: 11/15/2011  
 Effective Date: 02/13/2012

## 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*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Solid Waste Management
<b>Contact Person:</b>	David Moran
<b>Address:</b>	5 <sup>th</sup> Floor, L & C Annex 401 Church Street Nashville, Tennessee
<b>Zip:</b>	37243-1535
<b>Phone:</b>	(615) 532-0875
<b>Email:</b>	<a href="mailto:David.Moran@tn.gov">David.Moran@tn.gov</a>

**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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1200-01-10	Administrative Procedures
Rule Number	Rule Title
1200-01-10-.01	General
1200-01-10-.02 through 1200-01-10-.22	Reserved

Chapter Number	Chapter Title
0400-10-01	Administrative Procedures
Rule Number	Rule Title
0400-10-01-.01	General

(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://tn.gov/sos/rules/1360/1360.htm>)

#### Repeal

#### Chapter 1200-01-10 Administrative Procedures

Chapter 1200-01-10 Administrative Procedures is repealed.

Authority: T.C.A. §§ 68-211-101 et seq., 68-212-101 et seq., and 4-5-201 et seq.

#### New Rules

#### Chapter 0400-10-01 Administrative Procedures

#### Table of Contents

0400-10-01-.01 General

0400-10-01-.01 General

- (1) Unless otherwise specified by regulation or circumstances dictate otherwise, Chapter 1360-04-01 of the Rules of the Tennessee Department of State Administrative Procedures Division are applicable to all contested cases arising under Tennessee Code Annotated Title 68, Chapter 211 and Title 68, Chapter 212.
  - (a) In cases in which an Order and/or Assessment has been issued and a petition for review has been filed by a named party, the commissioner shall be the petitioner and the party petitioning for review shall be the respondent.
  - (b) In cases in which a permit has been denied and the applicant requests a hearing regarding the denial, the applicant shall be the petitioner and the commissioner shall be the respondent.
  - (c) In cases in which a permit holder has contested a condition of a permit or the applicability of a fee, the permit holder shall be the petitioner and the commissioner shall be the respondent.

Authority: §§ 68-211-101 et seq., 68-212-101 et seq., and 4-5-201 et seq.

\* 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)
Dr. Warren Anderson	✓				
Michael Atchison	✓				
Elaine Boyd	✓				
Melissa Bryant				✓	
Dr. Jack Deibert	✓				
Kenneth Donaldson	✓				
Dr. George Hyfantis, Jr.	✓				
Jared L. Lynn	✓				
Mayor Franklin Smith, III	✓				
Mark Williams				✓	
Glenn Youngblood	✓				

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 on 10/04/2011, 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: 06/07/11

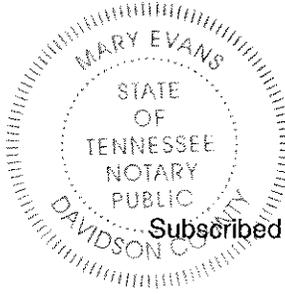
Rulemaking Hearing(s) Conducted on: (add more dates). 08/05/11

Date: October 4, 2011

Signature: *Kenneth Donaldson*

Name of Officer: Kenneth Donaldson

Title of Officer: Chairman



Subscribed and sworn to before me on: October 4, 2011

Notary Public Signature: *Mary Evans*

My commission expires on: January 6, 2014

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.

*Robert E. Cooper, Jr.*  
Robert E. Cooper, Jr.  
Attorney General and Reporter

11-10-11  
Date

Department of State Use Only

Filed with the Department of State on: 11/15/10

Effective on: 2/13/12

Tre Hargett  
Tre Hargett  
Secretary of State

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PUNJAB

## **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.

There were no comments received during the comment period.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 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.

This rulemaking changes the rule numbers from Chapter 1200-01-10 to 0400-10-01. It also makes housekeeping changes correcting editorial errors. Therefore, there is no impact on small business.

- (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 projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

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

There is no adverse affect on small businesses as a result of this rulemaking.

- (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 is unaware of alternatives to the proposed rules.

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

There is no exact match with any federal or 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.

Due to the administrative nature of this rulemaking, small businesses could not be exempt from this rulemaking.

## **Impact on Local Governments**

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule to proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

This rule amendment will not have an impact on local government.

## 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;

These rulemaking changes reflect a reorganization of all TDEC rules in order to be more logical and user friendly. This rulemaking affects Chapter 1200-01-10. Its various additions and modifications will incorporate:

- a. Changes to the numbering designation of rules from 1200-01-10 to 0400-10-01; and
- b. Correcting typographical errors throughout all Chapters.

- (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;

These rules are promulgated under the authorities of T.C.A. §§ 68-211-101 et seq., 68-212-101 et seq., and 4-5-201 et seq.

- (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;

All entities regulated under T.C.A. §§ 68-211-101 et seq. and 68-212-101 et seq. are affected by this rule. No one commented on this rule change.

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

The Board is not aware of any related Attorney General Actions or judicial ruling directly relating to the rule.

- (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;

There will be no increase or decrease of revenues resulting from this rulemaking.

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

David Moran  
Division of Solid Waste Management  
5<sup>th</sup> Floor, L & C Tower, 401 Church Street  
Nashville, TN 37243  
Phone: (615) 532-0875

- (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, Office of General Counsel  
Tennessee Department of Environment and Conservation  
20<sup>th</sup> Floor, L & C Tower  
Nashville, TN 37243-1548

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

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20<sup>th</sup> Floor, L & C Tower  
Nashville, TN 37243-1548  
[Alan.Leiserson@tn.gov](mailto:Alan.Leiserson@tn.gov)

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

The Board is not aware of any additional information requested by the committee.

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0400-10-01	Administrative Procedures
Rule Number	Rule Title
0400-10-01-.01	General

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Repeal

Chapter 1200-01-10  
Administrative Procedures

Chapter 1200-01-10 Administrative Procedures is repealed.

Authority: T.C.A. §§ 68-211-101 et seq., 68-212-101 et seq., and 4-5-201 et seq.

New Rules

Chapter 0400-10-01  
Administrative Procedures

Table of Contents

~~1200-01-10-01~~ 0400-10-01-.01 General

~~1200-01-10-04~~ 0400-10-01-.01 General

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Melissa Bryant					
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Kenneth Donaldson					
Dr. George Hyfantis, Jr.					
Jared L. Lynn					
Mayor Franklin Smith, III					
Mark Williams					
Glenn Youngblood					

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 on 10/04/2011, 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: 06/07/11

Rulemaking Hearing(s) Conducted on: (add more dates). 08/05/11

Date: October 4, 2011

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

Name of Officer: Kenneth Donaldson

Title of Officer: Chairman

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

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

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

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.

\_\_\_\_\_  
Robert E. Cooper, Jr.  
Attorney General and Reporter

\_\_\_\_\_  
Date

Department of State Use Only

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

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

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