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Sequence Number: 08-18-08  
 Notice ID(s): 901  
 File Date: 08/26/2008

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 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>	Robert Nakamoto
<b>Address:</b>	5th Floor, L & C Tower 401 Church Street Nashville, TN 37243-1535
<b>Phone:</b>	(615) 532-0868
<b>Email:</b>	<a href="mailto:robert.nakamoto@state.tn.us">robert.nakamoto@state.tn.us</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>	401 Church St 12th Fl L&C Twr Nashville TN 37243
<b>Phone:</b>	1-615-532-0200; hearing impaired callers may use the Tennessee Relay Service 1-800-848-0298
<b>Email:</b>	<a href="mailto:beverly.evans@state.tn.us?subject=inquiry">mailto:beverly.evans@state.tn.us?subject=inquiry</a>

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

Address 1:	Division of Solid Waste Management L & C Tower, 5 <sup>th</sup> Floor Conference Room
Address 2:	401 Church Street
City:	Nashville, Tennessee
Zip:	37243-1535
Hearing Date :	10/28/08
Hearing Time:	9:30 a.m.

**Additional Hearing Information:**

The Division prepared an initial set of draft rules for public review and comment. Copies of these initial draft rules 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  
 Suite E-645, Perimeter Park  
 2510 Mount. Moriah Road  
 Memphis, TN 38115-1520  
 (901) 368-7939/ 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  
2484 Park Plus Drive  
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 "Draft" rules may also be accessed for review using <http://state.tn.us/environment/swm/ppo>.

Draft copies may also be 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).

Oral or written comments are invited at the hearing. In addition, 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. Robert S. Nakamoto; 5<sup>th</sup> Floor, L & C Tower; 401 Church Street; Nashville, Tennessee 37243-1535; telephone 615-532-0868 or FAX 615-532-0886. However, such written comments must be received by the Division by 4:30 PM CST, November 12, 2008 in order to assure consideration. For further information, please contact Mr. Robert S. Nakamoto at the above address or telephone number or by e-mail at [robert.nakamoto@state.tn.us](mailto:robert.nakamoto@state.tn.us).

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (for additional chapters, copy and paste table)

	<b>Chapter Number</b>	<b>Chapter Title</b>
	1200-01-14	Commercial Hazardous Waste Management Facilities
	<b>Rule Number</b>	<b>Rule Title</b>
	1200-01-14-.03	Siting Criteria for New Commercial Hazardous Waste Facilities

(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 1200-01-14  
Commercial Hazardous Waste Management Facilities

Amendment

Rule 1200-01-14-.03 Siting Criteria for New Commercial Hazardous Waste Facilities is amended by correcting the spelling of the former word "Citing" in the title and in the Table of Contents to "Siting" so that the title of Rule 1200-01-14-.03 shall read "Siting Criteria for New Commercial Hazardous Waste Facilities" in both places.

Subparagraph (j) of paragraph (2) of Rule 1200-01-14-.03 Siting Criteria for New Commercial Hazardous Waste Facilities is amended by deleting it in its entirety and replacing it with the following and adding a new part 5 so that, as amended, the subparagraph shall read as follows:

- (j) Distances From Other Structures/Areas - This subparagraph establishes criteria governing the location of proposed commercial facilities relative to other structures or areas, which may be impacted. These criteria are designed to minimize incompatibility with the character of the surrounding area, to minimize adverse effects on the value of surrounding areas through impairment of the ability to enjoy or use such structures/areas, and to provide additional protection to public health and safety. These requirements shall not apply to structures which are part of or associated with the facility or which the owner or operator owns.
  - 1. Except as provided by part 5 of this subparagraph, new commercial facilities shall be at least 1,500 feet from the actual location of the hazardous waste facility measured as the shortest distance between the permitted hazardous waste management unit and the property line of existing structures/areas identified in part 3 of this subparagraph. New commercial facilities must also be screened from sight, or at a sufficient distance (not less than 1,500 feet) as to be indistinguishable from the surroundings and from existing structures/areas as identified in part 3 of this subparagraph, unless the owner or operator demonstrates to the satisfaction of the Commissioner that the facility and operations are consistent with the visual character of other surrounding structures and activities.
  - 2. New commercial facilities must be located, configured, designed, constructed, and/or operated such that transport vehicle parking areas (excluding driveways/access roads), loading and unloading areas, and other areas where mechanized (or other) noisy operations may take place do not cause a significant increase in the noise level at existing structure/area boundaries as identified in part 3 of this subparagraph.
  - 3. The requirements of parts 1 and 2 of this subparagraph apply to:
    - (i) Structures which are hospitals, nursing homes, or other institutions which house populations of the aged or sick;
    - (ii) Structures which are schools, child-care centers, or other non-residential facilities where children spend substantial amounts of time, and surrounding areas of associated use (e.g., including playgrounds but excluding driveways and parking areas);
    - (iii) Structures which are used as residences, and surrounding areas of associated use (e.g., including yards but excluding driveways, parking areas, farmlands, woodlots, etc.);
    - (iv) Structures which are churches, and surrounding areas of associated use (e.g., including yards, playgrounds, and picnic areas, but excluding driveways and parking areas); and

- (v) Structures which are used for public service, commercial retail, or commercial service purposes and frequented by the public.
- 4. New non-land based units and other areas/units (other than land-based units) where hazardous wastes are managed (including transport vehicle parking lots but excluding driveways and access roads) shall be located at least 50 feet from the facility property line.
- 5. The Commissioner may grant a variance from the 1,500 feet requirement in part 1 for new commercial facilities without land-based or thermal treatment units, which are sited at a location that was formerly permitted as a commercial hazardous waste management facility. All such facilities shall be at least 1,000 feet from the property line of existing structures/areas identified in part 3 of this subparagraph. These commercial facilities must also be screened from sight, or at a sufficient distance (not less than 1,000 feet) as to be indistinguishable from the surroundings and from existing structures/areas as identified in part 3 of this subparagraph, unless the owner or operator demonstrates to the satisfaction of the Commissioner that the facility and operations are consistent with the visual character of other surrounding structures and activities. In granting the variance, the Commissioner shall consider existing artificial and/or natural barriers, such as fences, ridges, hills, cliffs, airport runways, or a combination of such barriers, that will provide, in the opinion of the Commissioner, the equivalent protection provided by part 1 of this subparagraph.

Part 1 of subparagraph (n) of paragraph (4) of Rule 1200-01-14-.03 Siting Criteria for New Commercial Hazardous Waste Facilities is amended by adding "or 5" after "part (2)(j)1" and before "of this Rule" so that, as amended, the part shall read as follows:

- 1. Descriptive text, diagrams, artist's renderings, photographs, and/or other information as necessary to demonstrate compliance with part (2)(j)1 or 5 of this Rule; and

Authority: T.C.A. §§ 68-212-107 and 68-212-108