

Department of State
Division of Publications
 312 Rosa L. Parks, 8th Floor Snodgrass Tower
 Nashville, TN 37243
 Phone: 615.741.2650
 Fax: 615.741.5133
 Email: sos.information@state.tn.us

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Sequence Number: 11-35-08
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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.

Agency/Board/Commission:	Tennessee Department of Environment and Conservation (TDEC)
Division:	Solid Waste Management
Contact Person:	Robert S. Nakamoto
Address:	5th Floor, L & C Tower 401 Church Street Nashville, TN 37243-1535
Phone:	(615) 532-0868
Email:	robert.nakamoto@state.tn.us

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:

ADA Contact:	ADA Coordinator
Address:	12 th Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Beverly.Evans@state.tn.us

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

Address 1:	5 th Floor Annex Large Conference Room		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243-1535		
Hearing Date :	01/15/2009		
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> X CST	<input type="checkbox"/> EST

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

Chattanooga Environmental Field Office
 Suite 550- State Office Building
 540 McCallie Avenue

(731) 512-1300/ 1-888-891-8332

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
5th 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; 5th 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, January 27, 2009 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.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (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
1200-01-11	Hazardous Waste Management
Rule Number	Rule Title
1200-01-11-.01	Hazardous Waste Management System: General
1200-01-11-.02	Identification and Listing of Hazardous Waste
1200-01-11-.06	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal 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 1200-01-11
Hazardous Waste Management

Amendments

Subparagraph (a) of paragraph (2) of Rule 1200-01-11-.01 Hazardous Waste Management System General is amended by adding in a definition for “gasification” in alphabetical order that shall read as follows:

“Gasification” for the purpose of complying with Rule 1200-01-11-.02(1)(d)1(xii) means a process, conducted in an enclosed device or system, designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas clearing to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

Item (I) of subpart (xii) of part 1 of subparagraph (d) of paragraph (1) of Rule 1200-01-11-.02 Identification and Listing of Hazardous Waste is amended by inserting the phrase, “gasification (as defined in Rule 1200-01-11-.01(2)(a))” after “fractionation” and before “or” in the first sentence, and removing the comma after “refinery” and before “and” in the third sentence so that, as amended, the item shall read as follows:

- (xii) (I) Oil-bearing hazardous secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to distillation, catalytic cracking, fractionation, gasification (as defined in Rule 1200-01-11-.01(2)(a)), or thermal cracking units (i.e., cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this item provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in item (II) of this subpart, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this subpart. Residuals generated from processing or recycling materials excluded under this item (I) of this subpart, where such materials as generated would have otherwise met a listing under paragraph (4) of this Rule, are designated as F037 listed wastes when disposed of or intended for disposal.

Part 1 of subparagraph (b) of paragraph (4) of Rule 1200-01-11-.02 Identification and Listing of Hazardous Waste is amended by deleting the description for F019 in its entirety and replacing it with the description below, so that, as amended, the description shall read as follows:

- F019 Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay liner and is permitted, licensed or otherwise authorized by the state; or disposed in a landfill unit subject to, or otherwise meeting, the landfill requirements in 40 CFR 258.40 or the state equivalent, Rule 1200-01-11-.06(14)(b) or Rule 1200-01-11-.05(14)(b). For the purposes of this listing, motor vehicle manufacturing is defined in item 2(iv)(I) of this subparagraph and item 2(iv)(II) of this subparagraph describes the recordingkeeping requirements for motor vehicle manufacturing facilities.

Part 2 of subparagraph (b) of paragraph (4) of Rule 1200-01-11-.02 Identification and Listing of Hazardous Waste is amended by adding a subpart (iv), so that subpart (iv) shall read as follows:

- (iv) For the purposes of the F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.
 - (I) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles (including light duty vans, pick-up trucks, minivans, and sport utility vehicles). Facilities must be engaged in manufacturing complete vehicles (body and chassis or unibody) or chassis only.
 - (II) Generators must maintain in their on-site records documentation and information sufficient to prove that the wastewater treatment sludges to be exempted from the F019 listing meet the conditions of the listing. These records must include: the volume of waste generated and disposed of off site; documentation showing when the waste volumes were generated and sent off site; the name and address of the receiving facility; and documentation confirming receipt of the waste by the receiving facility. Generators must maintain these documents on site for no less than five (5) years. The retention period for the documentation is automatically extended during the course of any enforcement action or as requested by the Commissioner.

Subpart (i) of part 2 of subparagraph (a) of paragraph (15) of Rule 1200-01-11-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by replacing “2(ii) through 2(v)” with “2(ii) through 2(iv)” in the first sentence so that, as amended, the subpart shall read as follows:

- (i) Except as provided by subparts 2(ii) through 2(iv) of this subparagraph, the standards of this Rule do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR 63 Subpart EEE by conducting a comprehensive performance test and submitting to the Commissioner a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR 63 Subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, Hazardous Waste permit conditions that were based on the standards of this Rule will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

Subpart (iii) of part 1 of subparagraph (a) of paragraph (8) of Rule 1200-01-11-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is amended by adding the phrase “and 63.1219(e)” to the end of the sentence so that, as amended, the subpart shall read as follows:

- (iii) The particulate matter standard of part (d)3 of this paragraph remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of § 63.1206(b)(14) and 63.1219(e).

Subpart (v) of part 1 of subparagraph (a) of paragraph (8) of Rule 1200-01-11-.06 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities is deleted in its entirety.

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