

(Rule 0400-12-01-.01, continued)

5. Storage

- (i) Documents containing Proprietary Information must be stored within a locked cabinet so as to limit access to authorized persons.
- (ii) Keys and/or combinations to cabinets and/or rooms where the data is stored must be issued only to an authorized person.

(d) Transmittal Outside Department Offices

Proprietary Information shall not be transmitted outside Department offices without the approval of the Commissioner and such information must be transmitted by the document control officer in accordance with part (c)2 of this paragraph. The person submitting the Proprietary Information shall be notified when such occurs.

(e) Release to EPA

Notwithstanding any requirement of this paragraph seemingly to the contrary, Proprietary Information may be released to the U.S. Environmental Protection Agency in connection with the Commissioner's or Board's implementation or his or its responsibilities pursuant to the Act or as necessary to comply with federal law. Any such release of Proprietary Information to EPA, however, will be made with a confidentiality claim and shall be accompanied by the written statement received by the Department pursuant to subpart (a)2(viii) of this paragraph. Any transmittal of Proprietary Information to EPA shall be subject to the requirements of subparagraph (d) of this paragraph. The Commissioner shall notify the submitter of Proprietary Information of the release of such information to EPA as soon as practicable - to be no later than 5 days after such release - following receipt of EPA's request for the information.

(8) Availability of Information

- (a) The Division will respond to all requests for records within 20 days after the date of receipt of such requests.
- (b) If a facility does not assert a claim of proprietary information at the first opportunity provided by the Division, the Division may release the information without further notice to the facility. In addition, in the case of any information submitted in connection with a permit, permit application or interim status under Rules 0400-12-01-.05, .06, and .07, any facility proprietary information claim must be asserted at the time of submission of the information to the Division.
- (c) If a proprietary information claim is asserted and cannot be resolved in the time period provided for the Division's response to a request, the requestor will be notified of the proprietary information claim within the maximum 20-day time limit provided for the Division's response. In addition, the requestor must be told that the Division has denied the request in order to resolve the proprietary information claim.

(9) Retention of Records

- (a) In order to protect public health, safety and welfare, to prevent degradation of the environment, conserve natural resources and provide a coordinated statewide hazardous waste management program it is necessary to manage and retain records. These records shall be managed in accordance with Chapter 1210-01 Rules of Public Records Commission.

(Rule 0400-12-01-.01, continued)

(b) As defined by paragraph (2) of Rule 1210-01-.02, permanent records have permanent administrative, fiscal, historical or legal value. The following types of records generated by or received by the Department while fulfilling its duties under T.C.A. §§ 68-212-101 et seq., and Chapter 0400-12-01 Hazardous Waste Management shall be managed as permanent records:

1. All records containing information, by site, of hazardous wastes or hazardous secondary materials that have been generated, treated, stored, disposed of and/or recycled, or hazardous waste or hazardous secondary material activities that have been conducted at the site, shall be managed as a permanent record. These records have historic value since there is a risk that these hazardous waste activities may have caused contamination that remains undetected for many years. When an exposure occurs these records would be required in order to facilitate an effective response. These records include, but are not limited to:
  - (i) Generator notifications, waste stream pages and annual reports;
  - (ii) Hazardous waste permits and permit applications;
  - (iii) Hazardous Waste Inspection reports and enforcement actions; and
  - (iv) Recycling determinations and investigations.
2. All records regarding hazardous waste or hazardous substance remedial action sites managed by the Division shall be managed as permanent records. Records regarding site characterization, monitoring, remedial actions, risk determination and enforcement actions have historic value since the long term effects of hazardous waste, hazardous waste constituents or hazardous substances are uncertain and could lead to future exposures. When an exposure occurs, these records would be required in order to facilitate an effective response.
3. All records regarding unregulated hazardous waste sites where unlawful hazardous waste treatment, storage, disposal or recycling was documented shall be managed as permanent records. These records have historic value since the long term effects of hazardous waste, hazardous waste constituents or hazardous substances are uncertain and could lead to future exposures. When an exposure occurs, these records would be required in order to facilitate an effective response.

**Authority:** T.C.A. §§ 68-212-101 et seq. and 4-5-201 et seq. **Administrative History:** Original rule filed June 19, 2012; effective September 17, 2012. Rule was renumbered from 1200-01-11-.01 which was repealed. Amendments filed November 12, 2014; effective February 10, 2015.