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Sequence Number: 01-13-09
Notice ID(s): 991
File Date: 01/15/2009

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:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Jeff S. Cales
Address:	Cookeville EFO 1221 South Willow Ave. Cookeville, TN 38506
Phone:	(931) 432-7621
Email:	Jeff.Cales@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:	9 th Floor L & C Annex		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243-1531		
Hearing Date :	03/19/09		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

Additional Hearing Information:

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations, and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. Seq.

Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of their comments to be submitted to the hearing officer at the public hearing. Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Thursday, March 19, 2009, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

If you have any questions about the origination of this rule change, you may contact Mr. Jeff S. Cales at (931) 432-7621. Copies of documents concerning this matter are available for review at the office of the Technical Secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. Malcolm H. Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0600.

Revisions considered at this hearing may be adopted by the Tennessee Air Pollution Control Board under T.C.A. 68-201-105, the Board general authority to promulgate rules.

Materials concerning the proposed actions will be available at www.state.tn.us/environment/apc/ppo/ and also for public inspection during normal working hours starting on February 16, 2009, at the following locations:

Air Pollution Control Division
9th Floor, L & C Annex
401 Church Street
Nashville, TN 37243-1531

Pollution Control Division
Metropolitan Health Dept.
311 23rd Avenue, North
Nashville, TN 37203

Air Pollution Control Division
Cookeville EFO
1221 South Willow Avenue
Cookeville, TN 38506

Air Pollution Control Division
Knoxville EFO
3711 Middlebrook Pk., Suite 220
Knoxville, TN 37921

Air Pollution Control Division
Johnson City EFO
2305 Silverdale Road
Johnson City, TN 37601-2162

Air Pollution Control Division
Jackson EFO
1625 Hollywood Drive
Jackson, TN 38305

Air Pollution Control Division
Columbia EFO
2484 Park Plus Drive
Columbia, TN 38401

Knox County Department of
Air Quality Management
140 Dameron Avenue, Suite 242
Knoxville, TN 37917

Division of Air Pollution Control
Memphis-Shelby Co. Health Dept.
814 Jefferson Avenue
Memphis, TN 38105

Air Pollution Control Division
Chattanooga EFO
540 McCallie Avenue, Suite 550
Chattanooga, TN 37402

Air Pollution Control Division
Nashville EFO
711 R. S. Gass Boulevard
Nashville, TN 37243

Kingsport Public Library
400 Broad Street
Kingsport, TN 37660

Chattanooga-Hamilton County
Air Pollution Control Bureau
6125 Preservation Drive
Chattanooga, TN 37416

U.S. EPA, Region IV
APTMD - 12th Floor, Atlanta Federal Center
61 Forsyth Street S.W.
Atlanta, GA 30303
c/o Ms. Kay Prince, Chief

All persons interested in the air quality of the State of Tennessee are urged to attend and will be afforded the opportunity to present testimony to the hearing officer regarding the proposed additions and/or revisions to the State Implementation Plan.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here.)

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.04	Exemptions

(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 1200-03-09
Construction and Operating Permits

Amendment

Subparagraph (d) of paragraph (4) of rule 1200-03-09-.04 Exemptions is amended by adding a new part 25 so that the new part shall read:

25. Temporary-use air curtain destructors or temporary-use air curtain incinerators used in disaster recovery solely for disposal of materials resulting from a natural disaster and when conducted in conformity with the following conditions:
 - (i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. The air curtain destructor or air curtain incinerator shall only be used to combust debris in an area declared a State of Emergency by a local or State government, or the President, under the authority of the Stafford Act, has declared that an emergency or a major disaster exists in the area. Input from Emergency Management personnel may be requested in determining qualification with this criterion.
 - (ii) The maximum rated capacity for each temporary-use air curtain destructor or temporary-use air curtain incinerator shall not exceed 35 tons per day per unit.
 - (iii) The persons using temporary-use air curtain destructors or temporary-use air curtain incinerators under this provision must make a reasonable effort to remove all tires and other rubber products, vinyl shingles and siding, vinyl flooring, carpet, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials from the materials to be burned before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
 - (iv) The person responsible for such burning must notify the Division of Air Pollution Control of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.
 - (v) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.
 - (vi) The air curtain destructor or air curtain incinerator shall only be used during a period that begins on the date the unit started operation and lasts 8 weeks or less within the boundaries of the same emergency or disaster declaration area.
 - (vii) Disposal via temporary-use air curtain destructors or temporary-use air curtain incinerators conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.

- (viii) The Technical Secretary reserves the right to require a person to cease or limit burning if emissions from the air curtain destructor or air curtain incinerator are deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

Authority: T.C.A. § 68-201-105

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.



Date: January 8, 2009

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens, P.E.

Director

Title of Officer: Tennessee Division of Air Pollution Control

Subscribed and sworn to before me on: January 8, 2009

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 23, 2009

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Filed with the Department of State on: 1/15/08

Tre Hargett

Tre Hargett
Secretary of State

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