

Notice of Rulemaking Hearing  
Tennessee Department of Environment and Conservation  
Division of Air Pollution Control

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of amendments 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 these hearings 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. and will take place in the 17th Floor Conference Room A of the L & C Tower , located at 401 Church Street, , Nashville, Tennessee 37243-1531, at 1:00 p.m. CST on Monday, March 20, 2006. 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 Monday, March 20, 2006, at the following address: Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to March 20, 2006, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact Mr. John Rae White, Tennessee Department of Environment and Conservation ADA Coordinator, 12th Floor, 401 Church Street, Nashville TN 37243, (615) 532-0207. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Lacey Hardin at 615-532-0545. 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 Ms. Lacey Hardin or Mr. Malcolm Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0554. For complete copies of the text of the notice, please contact Lida Galbreath, Department of Environment and Conservation, 9th Floor, L & C Tower, 401 Church Street, Nashville, TN 37243.

Summary of Proposed Changes  
Chapter 1200-3-9  
Construction and Operating Permits  
Amendments

Rule 1200-3-9-.01 CONSTRUCTION PERMITS of the Tennessee Air Pollution Control Regulations is proposed to be amended by modifying the definition of "baseline actual emissions" to allow the use of different consecutive twenty-four (24) month periods for different pollutants when determining the baseline actual emissions if certain requirements are met. The federal New Source Review regulations allow this to be done; Tennessee had elected to restrict the definition so that a single consecutive twenty-four (24) month period was required, but information was presented.

Substance of Proposed Rules

Chapter 1200-3-9  
Construction and Operating Permits

Amendments

Chapter 1200-3-9 Construction and Operating Permits is amended in the following four (4) respects:

1. Item (III) of subpart (i) of part 45. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 CONSTRUCTION PERMITS is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

- (III) For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:
  - I. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.
  - II. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, the *voluntary* use of:
    - A. a cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),
    - B. a coating with a lower VOC content than otherwise permitted in a coating operation,
    - C. a voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and
    - D. alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.
  - III. Use of alternate 2-year baselines for the pollutants described in 2. above would result in the construction of the new source or modification not being subject to major new source review.
  - IV. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

2. Item (IV) of subpart (ii) of part 45. of subparagraph ((b) of paragraph (4) of rule 1200-3-9-.01 CONSTRUCTION PERMITS is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

- (IV) For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:
- I. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.
  - II. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, the *voluntary* use of:
    - A. a cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),
    - B. a coating with a lower VOC content than otherwise permitted in a coating operation,
    - C. a voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and
    - D. alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.
  - III. Use of alternate 2-year baselines for the pollutants described in 2. above would result in the construction of the new source or modification not being subject to major new source review.
  - IV. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

3. Subitem III. of item (I) of subpart (xlvii) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 CONSTRUCTION PERMITS is amended by substituting for the present subitem a different subitem so that, as amended, the resulting subitem shall read:

- III. For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:

- A. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.
- B. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, the *voluntary* use of:
  - (A) a cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),
  - (B) a coating with a lower VOC content than otherwise permitted in a coating operation,
  - (C) a voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and
  - (D) alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.
- C. Use of alternate 2-year baselines for the pollutants described in 2. above would result in the construction of the new source or modification not being subject to major new source review.
- D. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

4. Subitem IV. of item (II) of subpart (xlvii) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 CONSTRUCTION PERMITS is amended by substituting for the present subitem a different subitem so that, as amended, the resulting subitem shall read:

- IV. For a regulated NSR pollutant, when a project involves multiple emissions units, one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. However, the Technical Secretary is authorized to allow the use of multiple, pollutant specific 24-month baselines in determining the magnitude of a significant net emissions increase and the applicability of major new source review requirements if all of the following conditions are met:
  - A. Construction of a new source or modification would become subject to major new source review if a single 2-year baseline is used for all pollutants.
  - B. One or more pollutants were emitted during such 2-year period in amounts that were less than otherwise permitted for reasons other than operations at a lower production or utilization rate. Qualifying examples include, but are not limited to, the *voluntary* use of:
    - (A) a cleaner fuel than otherwise permitted in a fuel burning operation (e.g., natural gas instead of coal in a multi-fuel boiler),

- (B) a coating with a lower VOC content than otherwise permitted in a coating operation,
  - (C) a voluntary improvement in the control efficiency of an air pollution control device or the voluntary addition of a control device where one did not exist before, and
  - (D) alternate production methods, raw materials, or products that result in lower emissions of one or more pollutants.
- C. Use of alternate 2-year baselines for the pollutants described in 2. above would result in the construction of the new source or modification not being subject to major new source review.
- D. The use of the multiple baselines is not prohibited by any applicable provision of the USEPA's new source review regulations.

The burden for demonstrating that these conditions are met is upon the permit applicant. The demonstration and the Technical Secretary's approval will be made a part of the permit record.

Authority: T.C.A. §§68-201-105 and 4-5-202 et. seq. Administrative History: Original rule certified June 4, 1974. Amended effective February 9, 1977. Amended April 12, 1978. Amended June 16, 1978. Amended March 21, 1979. Amended June 21, 1979. Amended November 16, 1979. Emergency rule effective June 3, 1981 through October 1, 1981. Revised effective July 31, 1981. Amended effective October 2, 1981. Amended effective January 22, 1982. Amended effective March 2, 1983. Amended effective August 22, 1983. Amended effective November 6, 1988. Amendment filed April 19, 1990; effective June 2, 1990. Amendment filed May 17, 1990; effective July 1, 1990. Amendment filed May 12, 1993; effective June 26, 1993. Amendment filed September 7, 1993; effective November 21, 1993. Amendment filed April 18, 1994; effective July 2, 1994. Amendment filed June 2, 1994; effective August 15, 1994. Amendment filed March 29, 1995; effective June 14, 1995. Amendment filed June 3, 1996; effective August 14, 1996. Amendment filed June 7, 1996, effective August 18, 1996. Amendment filed October 14, 1996; effective December 28, 1996. Amendment filed November 12, 1998; effective January 26, 1999. Amendment filed June 8, 1999; effective August 22, 1999.

Legal Contact and/or party who will approve final copy for publication:

Ms. Lacey Hardin  
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Contact for disk acquisition:

Mr. Malcolm H. Butler  
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9th Floor L & C Annex  
401 Church Street  
Nashville, TN 37243-1531  
(615)532-0600

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Division of Air Pollution Control.



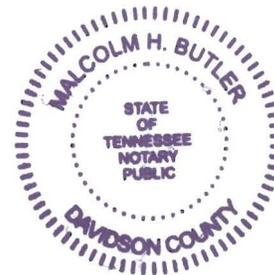
Barry R. Stephens  
Director  
Tennessee Division of Air Pollution Control

Subscribed and sworn to before me this the 30<sup>th</sup> day of January, 2006.



Notary Public

My commission expires on the 23<sup>rd</sup> day of May, 2009.



This notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of June, 2006.



Riley C. Darnell  
Secretary of State

By: 