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 312 Rosa L. Parks, 8th Floor Snodgrass Tower  
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 Phone: 615.741.2650  
 Fax: 615.741.5133  
 Email: register.information@tn.gov

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 File Date: 02/11/2011

# 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>	Air Pollution Control
<b>Contact Person:</b>	Lacey J. Hardin
<b>Address:</b>	9 <sup>th</sup> Floor L & C Annex 401 Church Street Nashville, Tennessee 37243-1531
<b>Phone:</b>	(615) 532-0545
<b>Email:</b>	<a href="mailto:Lacey.Hardin@gov.tn">Lacey.Hardin@gov.tn</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>	TDEC ADA Coordinator 12 <sup>th</sup> Floor 401 Church Street Nashville, Tennessee 37243
<b>Phone:</b>	(615) 532-0207 or for hearing impaired, TN Relay Service 1-800-848-0298
<b>Email:</b>	<a href="mailto:Beverly.Evans@tn.gov">Beverly.Evans@tn.gov</a>

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

Address 1:	9 <sup>th</sup> Floor L & C Annex		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243-1531		
Hearing Date :	04/04/11		
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 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 this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 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 Monday, April 4, 2011, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9<sup>th</sup> Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

The Tennessee Air Pollution Control Regulations are proposed to be amended by revising the requirements for major New Source Review and revising the requirements for major source operating permits in order to provide a method by which the chapter 1200-03-09 provisions adopted in accordance with the federal Greenhouse Gas Tailoring Rule and which were effective February 8, 2011, will no longer apply in the event that the U.S. Court of Appeals for the D.C. Circuit or the U.S. Supreme Court issues an order which would render GHG emissions not subject to regulation under the Prevention of Significant Deterioration, New Source Review provisions or the Title V operating permit program of the Federal Act; or there is a change to Federal law that supersedes regulation of GHGs under the Prevention of Significant Deterioration, New Source Review provisions or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-03, as of the effective date of the change in Federal law. If you have any questions about the origination of this rule change, you may contact Ms. Lacey Hardin at (615) 532-0545.

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. The changes proposed below may be revised based on comments received from the public, the regulated community, and any other affected entities. The Tennessee Air Pollution Control Board will consider all comments and set the fee appropriately.

Materials concerning the proposed actions will be available at <http://tn.gov/environment/apc/ppo/> and also for public inspection during normal working hours starting on Tuesday, March 1, 2011, 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  
1421 Hampshire Pike  
Columbia, TN 38401

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

Division of Air Pollution Control  
Memphis Environmental Field Office  
8383 Wolf Lake Drive  
Bartlett, TN 38133-4119

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 Mr. Richard Schutt, 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. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1200-03-09	Construction and Operating Permits
<b>Rule Number</b>	<b>Rule Title</b>
1200-03-09-.01	Construction Permits
1200-03-09-.02	Operating Permits

(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://tn.gov/sos/rules/1360/1360.htm>)

Chapter 1200-03-09  
Construction and Operating Permits

Amendments

Subpart (i) of part 46 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding two new items (I) and (II) as follows:

- (I) In the event that the U.S. Court of Appeals for the D.C. Circuit or the U.S. Supreme Court issues an order which would render GHG emissions not subject to regulation under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-3, as of the effective date of the Federal Register notice of vacatur.
- (II) In the event that there is a change to Federal law that supersedes regulation of GHGs under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-3, as of the effective date of the change in Federal law.

Part 32 of subparagraph (b) of paragraph (11) of rule 1200-03-09-.02 Operating Permits is amended by adding two new subparts (iii) and (iv) as follows:

- (iii) In the event that the U.S. Court of Appeals for the D.C. Circuit or the U.S. Supreme Court issues an order which would render GHG emissions not subject to regulation under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-3, as of the effective date of the Federal Register notice of vacatur.
- (iv) In the event that there is a change to Federal law that supersedes regulation of GHGs under the Prevention of Significant Deterioration, New Source Review provisions and/or the Title V operating permit program of the Federal Act, then GHGs shall not be subject to regulation, nor shall GHG emissions be required to be included in any construction or operating permit under this regulation 1200-3, as of the effective date of the change in Federal law.

Authority: T.C.A. §§68-201-101 et seq. and 4-5-201 et seq.

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: Feb. 10, 2011

Signature: *Barry R. Stephens*

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

Title of Officer: Director, Division of Air Pollution Control

Subscribed and sworn to before me on: February 10, 2011

Notary Public Signature: *Malcolm H. Butler*

My commission expires on: May 4, 2013



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Filed with the Department of State on: 2/11/11

*Tre Hargett*

Tre Hargett  
Secretary of State

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