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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: Environment and Conservation
Division: Air Pollution Control
Contact Person: Lacey J. Hardin
9th Floor L & C Annex
401 Church Street
Address: Nashville, Tennessee 37243-1531
Phone: (615) 532-0545
Email: Lacey.Hardin@gov.tn

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
TDEC ADA Coordinator
12th Floor
401 Church Street
Address: Nashville, Tennessee 37243
Phone: (615) 532-0207 or for hearing impaired, TN Relay Service 1-800-848-0298
Email: Beverly.Evans@tn.gov

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 :	09/09/10		
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, 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, September 9, 2010, 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 Ms. Lacey Hardin at (615) 532-0554. 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 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. 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 Friday, August 6, 2010, 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.)

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

Part 3 of subparagraph (a) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the "1" in "1981" and replacing it with a "1" so that, as amended, the part shall read:

3. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this paragraph or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this paragraph who commences construction after June 3, 1981 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

Subpart (ii) of part 24 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding "and part (b)46" between the words "subpart (b)24(i)" and "does" and by replacing the word "does" with the word "do" so that, as amended, the subpart shall read:

- (ii) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant subject to regulations of EPA under the Clean Air Act and that subpart (b)24(i) and part (b)46 do not list, any emissions rate.

Part 46 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the word "Reserved" and replacing it as follows:

46. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:
 - (i) Greenhouse gases (GHGs), the air pollutant defined in part 86.1818–12(a) of Chapter I of Title 40 of the Code of Federal Regulations as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation except as provided in subparts (iv) through (v) of this part.
 - (ii) For purposes of subparts (iii) through (v) of this part, the term tpy CO₂ equivalent emissions (CO₂e) shall represent an amount of GHGs emitted, and shall be computed as follows:
 - (l) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global

warming potential published at Table A-1 to subpart A of part 98 of Chapter I of Title 40 of the Code of Federal Regulations - Global Warming Potentials.

- (II) Sum the resultant value from item (ii)(I) of this part for each gas to compute a tpy CO₂e.
- (iii) The term emissions increase as used in subparts (iv) through (v) of this part shall mean that both a significant emissions increase (as calculated using the procedures in part (c)4 of this paragraph) and a significant net emissions increase (as defined in parts (b)4 and (b)24 of this paragraph) occur. For the pollutant GHGs, an emissions increase shall be based on tpy CO₂e, and shall be calculated assuming the pollutant GHGs is a regulated NSR pollutant, and "significant" is defined as 75,000 tpy CO₂e instead of applying the value in subpart (b)24(ii) of this paragraph.
- (iv) Beginning January 2, 2011, the pollutant GHGs is subject to regulation if:
 - (I) The stationary source is a new major stationary source for a regulated NSR pollutant that is not GHGs, and also will emit or will have the potential to emit 75,000 tpy CO₂e or more; or
 - (II) The stationary source is an existing major stationary source for a regulated NSR pollutant that is not GHGs, and also will have an emissions increase of a regulated NSR pollutant, and an emissions increase of 75,000 tpy CO₂e or more; and,
- (v) Beginning July 1, 2011, in addition to the provisions in subpart (4)(b)47(iv) of this rule, the pollutant GHGs shall also be subject to regulation:
 - (I) At a new stationary source that will emit or have the potential to emit 100,000 tpy CO₂e; or
 - (II) At an existing stationary source that emits or has the potential to emit 100,000 tpy CO₂e, when such stationary source undertakes a physical change or change in the method of operation that will result in an emissions increase of 75,000 tpy CO₂e or more.

Subpart (iv) of part 47 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding the words "as defined in part (b)46 of this paragraph" after the first occurrence of the words "Federal Clean Air Act" and deleting the remainder of the subpart so that, as amended, the subpart shall read:

- (iv) Any pollutant that otherwise is subject to regulation under the Federal Clean Air Act as defined in part (b)46 of this paragraph.

Part 47 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding a new subpart "(v)" as follows:

- (v) Notwithstanding subparts (b)47(i) through (iv) of this paragraph, the term "regulated NSR pollutant" shall not include any or all hazardous air pollutants either listed in section 112 of the Federal Clean Air Act or added to the list pursuant to section 112(b)(2) of the Federal Clean Air Act, and which have not been delisted pursuant to section 112(b)(3) of the Federal Clean Air Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Federal Clean Air Act.

Subpart (ii) of part 14 of subparagraph (b) of paragraph (11) of rule 1200-03-09-.02 Operating Permits is amended by adding the words “subject to regulation” between the words “air pollutant” and “(including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator)” so that, as amended, the subpart shall read:

- (ii) A major stationary source of air pollutants, as defined in section 302 of the Federal Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Federal Act, unless the source belongs to one of the following categories of stationary sources:

Subparagraph (b) of paragraph (11) of rule 1200-03-09-.02 Operating Permits is amended by adding a new part “32” as follows:

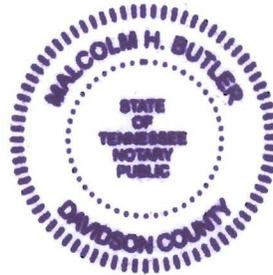
- 32. “Subject to regulation” means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act, or a nationally-applicable regulation codified by the Administrator in subchapter C of Chapter I of Title 40 of the Code of Federal Regulations, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:
 - (i) Greenhouse gases (GHGs), the air pollutant defined in 40 CFR 86.1818–12(a) as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO₂equivalent emissions.
 - (ii) The term tpy CO₂equivalent emissions (CO₂e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas’s associated global warming potential published at Table A–1 to subpart A of 40 CFR 98 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

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: July 16, 2010
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: July 16, 2010
Notary Public Signature: Malcolm H. Butler
My commission expires on: May 6, 2013



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Tre Hargett by Tre Hargett, POA
Tre Hargett
Secretary of State

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