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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.*

<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@tn.gov">Lacey.Hardin@tn.gov</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 :	11/17/10		
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, 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 Wednesday, November 17, 2010, 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.

If you have any questions about the origination of this rule change, you may contact Ms. Lacey Hardin at (615) 532-0554. The majority of the proposed changes are required by the final rule pertaining to Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5), which was published in the Federal Register on May 16, 2008. One proposed change is a typographical correction to a previous rulemaking. 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, 9<sup>th</sup> 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, October 15, 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

(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 24 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding a new item (XVII) as follows:

- (XVII)  $PM_{2.5}$ : 10 tpy of direct  $PM_{2.5}$  emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a  $PM_{2.5}$  precursor under 40 CFR 51.166 and/or 40 CFR 51.165.

Part 47 of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the current subpart (i) and replacing it with a new subpart (i) so that, as amended, the new subpart shall read as follows:

- (i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this part as a constituent or precursor to such pollutant. Precursors identified by the Administrator for purposes of NSR are the following:
  - (I) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.
  - (II) Sulfur dioxide is a precursor to  $PM_{2.5}$  in all attainment and unclassifiable areas.
  - (III) Nitrogen oxides are presumed to be precursors to  $PM_{2.5}$  in all attainment and unclassifiable areas, unless the State has demonstrated to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient  $PM_{2.5}$  concentrations.
  - (IV) Volatile organic compounds are presumed not to be precursors to  $PM_{2.5}$  in any attainment or unclassifiable area, unless the State has demonstrated to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are not a significant contributor to that area's ambient  $PM_{2.5}$  concentrations.

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

- (vi) Particulate matter (PM) emissions,  $PM_{2.5}$  emissions, and  $PM_{10}$  emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM,  $PM_{2.5}$ , and  $PM_{10}$  in PSD permits. Compliance with emissions limitations for PM,  $PM_{2.5}$ , and  $PM_{10}$  issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this paragraph unless the applicable implementation plan required condensable particulate matter to be included.

Subpart (vi) of part 4 of subparagraph (c) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the last sentence so that, as amended, the subpart shall read:

- (vi) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subparts (c)4(iii) through (iv) of this paragraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in part (b)24 of this paragraph).

Subpart (iv) of part 6 of subparagraph (d) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by deleting the period at the end of the subpart and adding a semicolon (;) followed by the word "or" so that, as amended, the subpart shall read:

- (iv) The existing air pollutant levels are conservatively estimated to be less than the concentrations listed in subpart (i) of this part, and a monitoring network may not reliably measure the predicted background concentrations; or

Part 6 of subparagraph (d) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding a new subpart (v) as follows:

- (v) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subpart (d)6(i) of this paragraph.

Item (I) of subpart (x) of part 1 of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding a new subitem VII as follows:

- VII  $PM_{2.5}$ : 10 tpy of direct  $PM_{2.5}$  emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a  $PM_{2.5}$  precursor under 40 CFR 51.166 and/or 40 CFR 51.165.

Subpart (xlix) of part 1 of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by deleting item (III) and replacing it with a new item (III) and (IV) as follows:

- (III) Any pollutant that is a constituent or precursor of a general pollutant listed under items 1(xlix)(I) or (II) of this subparagraph, provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors for purposes of NSR are the following:
  - I Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas.
  - II Sulfur dioxide is a precursor to  $PM_{2.5}$  in all  $PM_{2.5}$  nonattainment areas.
  - III Nitrogen oxides are presumed to be precursors to  $PM_{2.5}$  in all  $PM_{2.5}$  nonattainment areas, unless the State demonstrates to the satisfaction of the EPA Administrator or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that areas ambient  $PM_{2.5}$  concentrations.
  - IV Volatile organic compounds and ammonia are presumed not to be precursors to  $PM_{2.5}$  in any  $PM_{2.5}$  nonattainment area, unless the State demonstrates to the satisfaction of the EPA

Administrator or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient PM<sub>2.5</sub> concentrations; or

- (IV) PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011, such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> in nonattainment major NSR permits. Compliance with emissions limitations for PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the (Tennessee) State Implementation Plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this rule unless the State Implementation Plan required condensable particulate matter to be included.

Subpart (v) of part 2 of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by inserting a period after "Offsets", adding language after the period, and adding a new item (XV) so that, as amended, the subpart shall read:

- (v) Emissions Offsets. In meeting the emission offset requirements of this paragraph, the ratio of total actual emissions reductions to the emissions increase shall be at least 1:1 unless an alternative ratio is provided for the applicable nonattainment area in items (III), (IV) and (XIV) of this subpart.
- (I) Prior to the issuance of a permit under this subpart, legally enforceable emission offsets shall be obtained from the same source or other sources in the same non-attainment area, except that such emissions reduction may be obtained from a source in another non-attainment area if:
- I. The other area has an equal or higher non-attainment classification than the area in which the source is located; and,
  - II. Emissions from such other area contribute to a violation of an air quality standard in the non-attainment area in which the proposed new or modified source would construct.
- (II) By the time that the new or modified source commences operation, such reductions shall be in place such that the total tonnage of emissions of any applicable non-attainment air contaminant allowed from the proposed new source, or net emissions increase from the modification, shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air contaminant from the same or other sources.
- (III) In meeting the requirements of item (v)(II) of the subpart for ozone non-attainment areas that are subject to subpart 2, part D, title I of the Clean Air Act, the ratio of total actual emission reductions of Volatile Organic Compounds and/or Nitrogen Oxides to the net emissions increase of Volatile Organic Compounds and/or Nitrogen Oxides shall be as follows:
- I. In any Marginal non-attainment area for ozone - at least 1.1 to 1;
  - II. In any Moderate non-attainment area for ozone - at least 1.15 to 1;
  - III. In any Serious non-attainment area for ozone - at least 1.2 to 1;

- IV. In any Severe non-attainment area for ozone - at least 1.3 to 1;
  - V. In any Extreme non-attainment area for ozone - at least 1.5 to 1.
- (IV) Within an ozone transport region that is subject to subpart 2, part D, title I of the Clean Air Act, for any area designated for ozone attainment, unclassified, or Marginal non-attainment, the ratio of total actual emission reductions of Volatile Organic Compounds and/or Nitrogen Oxides to net emissions increase of Volatile Organic Compounds and/or Nitrogen Oxides shall be at least 1.15 to 1.
- (V) I. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be generally credited for offsets if they meet the requirements in sections IA and B of this item.
- A. Such reductions are surplus, permanent, quantifiable, and federally enforceable.
  - B. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Technical Secretary may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.
- II. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in section IB of this item may be generally credited only if:
- A. The shutdown or curtailment occurred on or after the date the construction permit application is filed; or
  - B. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of section IA of this item.
- (VI) With respect to a proposed increase in VOC emissions, no emissions credit shall be allowed for reductions in any organic compound specifically excluded from the definitions of "VOC" in this Division 1200-03.
- (VII) Credit for an emissions reduction may be claimed to the extent that the reduction has not been relied on in any permit already issued under regulations approved pursuant to 40 CFR Parts 51, 52, and 70, (July 1, 1993) or the State has not relied on it in demonstrating attainment or reasonable further progress. Incidental emissions reductions which are not otherwise required under the federal Clean Air Act (As amended

November 15, 1990) may be credible as emissions reductions for such purposes if such emissions reductions meet the applicable requirements of this part.

- (VIII) Procedures relating to the permissible locations of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51, Appendix S, Section IV.D. (July 1, 1993 ).
- (IX) Reserved.
- (X) Reserved.
- (XI) The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset in accordance with section 173 of the Federal Clean Air Act shall be determined by summing the difference between the allowable emissions after the modification (as defined by subpart 1(xi) of this subparagraph) and the actual emissions before the modification (as defined in subpart 1(xiii) of this subparagraph) for each emissions unit.
- (XII) Where the emissions limit under this Division 1200-03 allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential;
- (XIII) For an existing fuel combustion source, credit shall be based on the allowable emissions under this Division 1200-03 for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable (or actual) emissions for the fuels involved is not acceptable, unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a dirtier fuel at some later date. The Technical Secretary shall ensure that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches
- (XIV) Within an ozone non-attainment area that is subject to subpart 1, part D, title I of the Clean Air Act (but is not subject to subpart 2, part D, title I of the Act, including 8-hour ozone non-attainment areas subject to 40 CFR 51.902(b)), the ratio of total actual emissions reductions of either volatile organic compound or nitrogen oxides to the emissions increase of either volatile organic compounds or nitrogen oxides shall be at least 1:1.
- (XV) In meeting the emissions offset requirements of this subpart for fine particulate matter ( $PM_{2.5}$ ), the emissions offsets obtained shall be for the same regulated NSR pollutant.

Subpart (xvii) of part 2 of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by deleting the last sentence so the subpart reads as follows:

- (xvii) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subparts 2(xiv) through (xv) of this subparagraph as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in subpart 1(x) of this subparagraph).

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

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: September 21, 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: September 21, 2010  
 Notary Public Signature: *Malcolm H. Butler*  
 My commission expires on: May 6, 2013



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Filed with the Department of State on: 9/22/10

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 Tre Hargett  
 Secretary of State

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