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Sequence Number: 10-14-13
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 File Date: 10/9/13

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 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
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 th Floor Nashville, Tennessee 37243
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
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 2 nd Floor Nashville, Tennessee 37243
Phone:	(866) 253-5827 (toll free) or (615) 532-0200. Hearing impaired callers may use the Tennessee Relay Service ((800) 848-0298).
Email:	beverly.evans@tn.gov

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

Address 1:	Conference Room A, 15 th Floor		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	12/03/13		
Hearing Time:	9:30 a.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

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 T.C.A. § 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 December 3,

2013, at the office of the Technical Secretary, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243.

If you have any questions about the origination of this rule change, you may contact Ms. Lacey Hardin at (615) 532-0554.

In this rulemaking we are proposing to amend Chapter 1200-03-09 to accomplish three objectives:

- Creating a new rule to allow a system of general permits. This approach would allow the board to make rules applicable to broad categories of similar sources subject to federal or state regulatory provisions (or both). These would be considered minor (or area) sources not covered in the universe of the Title V permitting program. Once a general permit is adopted covering a specific category of industrial operation individual sources in the applicable category, a permittee would only have to notify that they wish to elect to be covered under the provisions of the general permits. No individualized permits would be required in those cases. This should streamline the permitting process for many smaller sources and allow more time to be focused on larger and more complex sources that have higher emissions and that need a more individualized approach.
- Deleting PM 2.5 significant impact levels (SILs) from the state rule. The Board had recently adopted language based on a corresponding federal regulation that was vacated by a federal court in reviewing EPA's authority to adopt the SILs. The state level rule now needs to be made consistent with the federal regulations by striking out the language vacated in the court decision.
- Amending language for compliance certification relating to continuous or intermittent compliance. The proposed amendment would allow the state regulation to be consistent with the federal regulation. Due to federal litigation resulting in a court decision requiring EPA to change the language it had previously adopted. This amendment will eliminate any confusion which could arise from inconsistency in the current state regulation with the current federal regulation.

For information about reviewing these documents, please contact Mr. Malcolm Butler, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243, 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 www.tn.gov/environment/ppo/#air and also for public inspection during normal working hours starting on October 31, 2013, at the following locations:

Air Pollution Control Division
William R. Snodgrass TN Tower
312 Rosa L. Parks Avenue,
15th Floor
Nashville, TN 37243

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

Air Pollution Control Program
Memphis /Shelby County 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 Mr. Scott Davis, 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) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title 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
1200-03-09-.06	General 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://state.tn.us/sos/rules/1360/1360.htm>)

Amendments

Chapter 1200-03-09
Construction and Operating Permits

Subparagraph (h) of paragraph (1) of Rule 1200-03-09-.01 Construction Permits is amended by deleting the current subparagraph (h) and replacing it with a new subparagraph (h) so that, as amended, the new subparagraph shall read as follows:

- (h) The Department shall on a monthly basis notify the public, by advertisement in a newspaper of general circulation in each air quality control region in which the proposed source or modification would be constructed, of the applicants seeking to obtain a permit to construct or modify an air contaminant source. This notice shall specify the general vicinity or location of the proposed source or modification, the type of source or modification, and opportunity for public comment. Comments shall be in writing and delivered to the Technical Secretary within thirty (30) days after the publication of the public notice. The requirements of this subparagraph are considered to be met for general permits by monthly publication on the Department's website of a list of facilities requesting to be covered by a general permit.

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

Item (III) of subpart (i) of part 6 of subparagraph (d) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting the current item (III) and replacing it with a new item (III) so that, as amended, the new item shall read as follows:

(III) Particulate matter:

10 µg/m³ of TSP, 24-hour average
10 µg/m³ of PM₁₀, 24-hour average;

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

Subitem II of item (III) of subpart (v) of part 3 of subparagraph (e) of paragraph (11) of rule 1200-03-09-.02 Operating Permits is amended by deleting the current subitem (II) and replacing it with a new subitem II so that, as amended, the new subitem shall read as follows:

- II. The identification of the method(s) or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. Such methods and other means shall include, at a minimum, the methods and means required under subpart 1200-03-09-.02(11)(e)1(iii). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Federal Act (see subitem V), which prohibits knowingly making a false certification or omitting material information;

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

Subitem III of item (III) of subpart (v) of part 3 of subparagraph (e) of paragraph (11) of rule 1200-03-09-.02 Operating Permits is amended by deleting the current subitem III and replacing it with a new subitem III so that, as amended, the new subitem shall read as follows:

- III. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the method or means designated in subitem 1200-03-09-.02(11)(e)3(v)(III)II. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under subparagraph 1200-03-09-.02(11)(b) occurred; and

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

New Rule

Chapter 1200-03-09
Construction and Operating Permits

The Table of Contents for Chapter 1200-03-09 Construction and Operating Permits is amended by adding a new rule 1200-03-09-.06 with the title: General Permits.

A new rule is added to Chapter 1200-03-09 Construction and Operating Permits as Rule 1200-03-09-.06 General Permits to read as follows:

1200-03-09-.06 General Permits

(1) Applicability

- (a) This rule does not apply to sources that are subject to the provisions of paragraph (11) of Rule 1200-03-09-.02.
- (b) Sources located in a nonattainment area are not eligible for a general permit for construction of a new or modified air contaminant source if the source emits the pollutant and/or a precursor to the pollutant for which the area has been designated nonattainment by the United States Environmental Protection Agency or the Tennessee Air Pollution Control Board.

- (2) The Air Pollution Control Board may issue general permits for the purpose of covering numerous similar sources that are owned or operated by different persons at different facilities.

- (3) Irrespective of the provisions of the preceding rules of this chapter, a general permit may serve as both a construction permit and an operating permit.
- (4) A general permit serving as a construction permit shall be subjected to public notice and an opportunity for public participation, as specified in subparagraph (1)(h) of Rule 1200-03-09-.01.
- (5) The permit shall specify the eligibility criteria by which sources may qualify for the general permit. The general permits shall state the process by which a source notifies the Technical Secretary that it intends to be authorized under the general permit. The general permit shall state the means by which the Technical Secretary confirms that the source is covered by the general permit or that the source requires an individual permit. The source constructing and/or operating under the provisions of a general permit shall be subject to enforcement action for construction and/or operation without a permit required by this chapter if the source requested coverage under a general permit by representing themselves to be eligible for a general permit in their notice of intent and it is later determined that the source does not qualify for the eligibility terms and conditions of the general permit.
- (6) Sources subject to the provisions of this chapter that would qualify for a general permit shall submit a notice of intent to the Technical Secretary for coverage under the terms of the general permit. The Board may, in the general permit, provide for the requirements for the notice of intent which may deviate from the requirements of Rules 1200-03-09-.01 and 1200-03-09-.02, provided that they include all information necessary to determine qualifications for and to assure compliance with, the general permit.
- (7) If the Division or a source covered by a general permit determines that it no longer qualifies for such permit, the source shall submit a Notice of Termination within thirty (30) days of such determination or notification by the Division.
- (8) Duration of Permits. General Permits shall be issued for a fixed term, not to exceed 10 years, which shall be stated in the permit.

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: October 9, 2013

Signature: Quincy N. Styke III

Name of Officer: Quincy Styke

Title of Officer: Deputy Director



Subscribed and sworn to before me on: October 9, 2013

Notary Public Signature: Malcolm H. Butler

My commission expires on: 1-11-2014

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Filed with the Department of State on: 10/9/13

Tre Hargett

Tre Hargett
Secretary of State

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