

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 under the authority of Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be distributed to the members of the Tennessee Air Pollution Control Board for their review in regard to the proposed 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. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, at 9:30 a.m. on Thursday, June 21, 2007. 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, June 21, 2007, 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 Thursday, June 21, 2007, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the 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 these rule changes, you may contact Ms. Lacey Hardin or Mr. Malcolm Butler 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 Ms. Lacey Hardin or Mr. Malcolm Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0554.

Summary of Proposed Rules

The Tennessee Air Pollution Control Regulations are proposed to be amended by revising the requirements for major New Source Review in accordance with federal changes.

Substance of Proposed Rules

Chapter 1200-03-09 Construction and Operating Permits

Amendments

Chapter 1200-03-09 is amended in the following twenty-one (21) respects:

1. Subpart (i) of part 2. of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding items IX and X so that, as amended, the subpart shall read:

- (i) A physical change or change in the method of operation shall not include:
 - (I) Routine maintenance, repair, or replacement;
 - (II) Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to an applicable federal statute;
 - (III) Use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act;
 - (IV) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste as determined by the Tennessee Division of Solid Waste Management.
 - (V) Use of an alternative fuel or raw material by a stationary source which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under a legally enforceable permit condition which was established after January 6, 1975, or under regulations of this Division 1200-3, or under regulations approved by the Environmental Protection Agency pursuant to 40 CFR 51.160-51.166;
 - (VI) An increase in the hours of operation or in the production rate, unless such change would be prohibited under a legally enforceable permit condition which was established after January 6, 1975, or under regulations of this Division 1200-3.
 - (VII) Any change in ownership at a stationary source.
 - (VIII) Reserved.
 - (IX) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:
 - I. The State Implementation Plan for the State in which the project is located, and
 - II. Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.
 - (X) The installation or operation of a permanent clean coal technology demonstration project that constitutes re-powering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

- 2. Subpart (i) of part 3. of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 CONSTRUCTION PERMITS is amended by adding the words "and/or nitrogen oxides" between the words "compounds" and "shall" so that, as amended, the subpart shall read:

- (i) A source that is major for volatile organic compounds and/or nitrogen oxides shall be considered major for ozone.

- 3. Subpart (ii) of part 3. of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding the words "and/or nitrogen oxides" between the words "compounds" and "shall" so that, as amended, the subpart shall read:
 - (ii) Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds and/or nitrogen oxides shall be considered significant for ozone.

- 4. Item (V) of subpart (i) of part 24. of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding the words "and/or nitrogen oxides" behind the word "compounds" so that, as amended, the item shall read:
 - (V) Ozone: 40 tpy of volatile organic compounds and/or nitrogen oxides.

- 5. Subpart (i) of part 47. of subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding the words "and nitrogen oxides" between the words "compounds" and "are" so that, as amended, the subpart shall read:
 - (i) Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (e.g., volatile organic compounds and nitrogen oxides are precursors for ozone);

- 6. Item (V) of subpart (i) of part 6. of subparagraph (d) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by replacing the word "de minimis" with the words "de minimis" between the words "no" and "air" and adding the words "or nitrogen oxides" between the words "compounds" and "subject" so that, as amended, the item shall read:
 - (V) Ozone - no de minimis air quality level has been established. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

- 7. Subparagraph (b) of paragraph (4) of rule 1200-03-09-.01 Construction Permits is amended by adding four new parts "55., 56., 57., and 58." as follows:
 - 55. "Clean coal technology" means any technology, including technologies applied at the pre-combustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.
 - 56. "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy – Clean Coal Technology", up to a total amount

of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

- 57. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated.
- 58. "Re-powering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990. Re-powering shall also include any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the U.S. Department of Energy. The reviewing authority shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under section 409 of the Clean Air Act.

8. Item (I) of subpart (iv) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the new item shall read:

- (I) Any stationary source of air contaminants which emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Clean Air Act, according to sub-items I through VI of this item.
 - I 50 tons per year of volatile organic compounds in any serious ozone non-attainment area.
 - II 50 tons per year of volatile organic compounds in an area within an ozone transport region, except for any severe or extreme ozone non-attainment area.
 - III 25 tons per year of volatile organic compounds in any severe ozone non-attainment area.
 - IV 10 tons per year of volatile organic compounds in any extreme ozone non-attainment area.
 - V 50 tons per year of carbon monoxide in any serious non-attainment area for carbon monoxide, where stationary sources contribute significantly to carbon monoxide levels in the area (as determined under rules issued by the Administrator of the

U.S. EPA).

VI 70 tons per year of PM-10 in any serious non-attainment area for PM-10;

or

9. Item (II) of subpart (iv) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by removing the "s" from the word "items" between the word "under" and before the numerical "(iv)" so that, as amended, the item shall read:

(II) Any physical change that would occur at a stationary source not qualifying under item (iv)(I) as a major stationary source, if the change would constitute a major stationary source by itself.

10. Item (III) of subpart (v) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding two new sub-items "X. and XI." as follows:

X. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A. The State Implementation Plan for the State in which the project is located, and

B. Other requirements necessary to attain and maintain the national ambient air quality standard during the project and after it is terminated.

XI. Any physical change in, or change in the method of operation of, a major stationary source of volatile organic compounds that results in any increase in emissions of volatile organic compounds from any discrete operation, emissions unit, or other pollutant emitting activity at the source shall be considered a significant net emissions increase and a major modification for ozone, if the major stationary source is located in an extreme ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act.

11. Subpart (x) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding four new items "(II), (III), (IV) and (V)" as follows:

(II) Notwithstanding the significant emissions rate for ozone in item (I) of this subpart, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds that would result from any physical change in, or change in the method of operation of, a major stationary source locating in a serious or severe ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act Act, if such emissions increase of volatile organic compounds exceeds 25 tons per year.

- (III) Reserved
- (IV) Notwithstanding the significant emissions rate for carbon monoxide under item (I) of this subpart, significant means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of carbon monoxide that would result from any physical change in, or change in the method of operation of, a major stationary source in a serious non-attainment area for carbon monoxide if such increase equals or exceeds 50 tons per year, provided the Administrator of the U.S. EPA has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
- (V) Notwithstanding the significant emissions rates for ozone under items (I) and (II) of this subpart, any increase in actual emissions of volatile organic compounds from any emissions unit at a major stationary source of volatile organic compounds located in an extreme ozone non-attainment area that is subject to subpart 2, part D, title I of the Clean Air Act shall be considered a significant net emissions increase.

12. Item (I) of subpart (xxxiii) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding a new sub-item "III."as follows:

- III. The Administrator of the U.S. EPA has granted a NO_x waiver applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

13. Part 1. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding three new subparts "(lvii), (lviii) and (lix)" as follows:

- (lvii) "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State Implementation Plan for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- (lviii) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.
- (lix) Clean coal technology demonstration project means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

14. Sub-item II. of item (I) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by replacing the word "a" with the word "an" between the words "of" and "air" so that , as amended, the sub-item shall read:
- 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.
15. Item (III) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding the words "that are subject to subpart 2, title I of the Clean Air Act," between the words "areas" and "the" so that, as amended, the new item shall read:
- (III) In meeting the requirements of item (v)(II) of the sub-part for ozone non-attainment areas that are subject to subpart 2, 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.
16. Item (IV) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended adding the words " that is subject to subpart 2, title I of the Clean Air Act" between the words "region" and "for" and substituting for the value "1.5" the value "1.15" between the words "least" and "to" so that, as amended, the item shall read:
- (IV) Within an ozone transport region that is subject to subpart 2, 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.
17. Item (V) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the new item shall read:

- (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 through 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.

18. Subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding a new item "(XIV)" as follows:

- (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 volatile organic compound and/or nitrogen oxides to the emissions increase of volatile organic compounds and/or nitrogen oxides shall be at least 1:1.

19. Subparagraph (b) of paragraph (5) of rule 1200-03-09-.01 Construction Permits is amended by adding a new part "12." as follows:

- 12. The requirements of this sub-paragraph applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator of the U.S EPA determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area.

20. Subpart (iii) of part 4. of subparagraph (b) of paragraph (8) of rule 1200-03-09-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the new item shall read:

(iii) The source is a portable stationary source which has previously received a permit under this part; and

Authority: T.C.A. §§4-5-202 et seq. and 68-201-105.

21. Paragraph (1) of rule 1200-03-09-.03 GENERAL PROVISIONS is amended by substituting for the word "data" the word "date" between the words "earlier" and "than" so that, as amended, the resulting paragraph shall read:

(1) Irrespective of the provisions of the preceding paragraphs of this chapter, the owner or operator of any air contaminant source shall be responsible for complying with emission regulations as contained in other chapters of these regulations at the earliest practicable time and for this purpose the Board shall have the authority and responsibility to require compliance with these regulations at an earlier date than indicated where such earlier compliance may reasonably be accomplished.

Authority: T.C.A. §§68-25-105 and 4-5-202 et. seq.

This notice of rulemaking set out herein was properly filed in the Department of State on the 30th day of April, 2007. (FS 04-36-07, DBID 626)