

## RULEMAKING HEARINGS

### **TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION - 0400 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 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. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 20<sup>th</sup> day of November, 2006. 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, November 20, 2006, 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.

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 November 20, 2006 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, 12<sup>th</sup> 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 AND SUBSTANCE OF PROPOSED RULES**

The proposed revisions to Rules 1200-3-9-.01 Construction Permits and 1200-3-9-.02 Operating Permits are amended by correcting typographical errors and removing the Clean Unit and Pollution Control Project provisions from the permitting requirements for major New Source Review. These provisions were vacated from the federal rules by the D.C. Circuit Court June 24, 2005.

### **CHAPTER 1200-3-9 CONSTRUCTION AND OPERATING PERMITS**

#### **AMENDMENTS**

Chapter 1200-3-9 is amended in the following thirty (30) respects:

1. Part 11. of subparagraph (a) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by deleting the words "at a Clean Unit or" so that, as amended, the part shall read:

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11. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a plantwide applicability limitation [PAL]) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in items (b)38.(i)(I) through (III) of this paragraph for calculating projected actual emissions.
2. Item (VIII) of subpart (i) of part 2. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(VIII) Reserved.
3. Item (III) of subpart (iii) of part 4. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(III) Reserved.
4. Item (IV) of subpart (vi) of part 4. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

(IV) Reserved.
5. Part 35. of subparagraph (b) of paragraph (4) of rule 1200-3-9-. Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

35. Reserved.
6. Part 39. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

39. Reserved.
7. Sub-item III. of item (III) of subpart (i) of part 45. of subparagraph (b) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

III. Use of alternate 2-year baselines for the pollutants described in sub-item II above would result in the construction of the new source or modification not being subject to major new source review.
8. Sub-part (v) of part 4. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

(v) Reserved.

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9. Sub-part (vi) of part 4. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part 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 sub-parts (c)4.(iii) through (v) 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). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in sub-part (c)4.(iii) of this paragraph for the existing unit and determined using the method specified in sub-part (c)4.(iv) of this paragraph for the new unit

10. Part 6. of subparagraph (c) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

6. Reserved.

11. Subparagraph (p) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(p) Reserved.

12. Subparagraph (q) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(q) Reserved.

13. Subparagraph (r) of paragraph (4) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subparagraph a different subparagraph so that, as amended, the resulting subparagraph shall read:

(r) Reserved.

14. Sub-item VIII. of item (III) of subpart (v) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

VIII. Reserved.

15. Sub-item III. of item (III) of subpart (vi) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

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### III. Reserved.

16. Sub-item V. of item (V) of subpart (vi) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-item a different sub-item so that, as amended, the resulting sub-item shall read:

### V. Reserved.

17. Sub-part (xxxvii)of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

### (xxxvii) Reserved.

18. Sub-part (xli)of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

### (xli) Reserved.

19. Section C of subitem IV of item (II) of subpart (xlvii) of part 1. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present section a different section so that, as amended, the resulting section shall read:

C Use of alternate 2-year baselines for the pollutants described in section B above would result in the construction of the new source or modification not being subject to major new source review.

20. Item (IX) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

### (IX) Reserved.

21. Item (X) of subpart (v) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present item a different item so that, as amended, the resulting item shall read:

### (X) Reserved.

22. Sub-part (xvi) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subpart a different subpart so that, as amended, the resulting sub-part shall read:

### (xvi) Reserved.

23. Sub-part (xvii) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present sub-part a different sub-part so that, as amended, the resulting sub-part shall read:

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(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 sub-parts 2.(xiv) through (xvi) 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 sub-part 1.(x) of this subparagraph). For example, if a project involves both an existing emissions unit and a new emissions unit, the projected increase is determined by summing the values determined using the method specified in sub-part 2.(xiv) of this subparagraph for the existing unit and using the method specified in sub-part 2.(xv) of this subparagraph for the new unit.

24. Sub-part (xix) of part 2. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present subpart a different subpart so that, as amended, the resulting sub-part shall read:

(xix) Reserved.

25. Part 5. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

5. The following specific provisions apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in sub-items 1.(xl)(I) through III of this subparagraph for calculating projected actual emissions.

26. Part 7. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

7. Reserved.

27. Part 8. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

8. Reserved.

28. Part 9. of subparagraph (b) of paragraph (5) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present part a different part so that, as amended, the resulting part shall read:

9. Reserved.

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

29. Paragraph (1) of rule 1200-3-9-.01 Construction Permits is amended by substituting for the present paragraph a different paragraph so that, as amended, the resulting paragraph shall read:

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- (1) Any person planning to operate an air contaminant source constructed or modified in accordance with a construction permit issued by the Technical Secretary in rule 1200-3-9-.01 of this chapter shall apply for and receive an operating permit from the Technical Secretary after initial start-up of this said air contaminant source. Ninety (90) days shall be allowed for this, provided paragraph (3) of this rule is complied with. This time period is extended from ninety (90) to one hundred twenty (120) days if stack sampling has been required as a condition on the construction permit, which is further extended to sixty (60) days after the stack sampling report is required on the construction if a certain time is specified, provided the stack sampling report is filed with the Division within sixty (60) days of initial start-up or the time specified on the construction permit and that paragraph (3) of this rule is complied with.

30. Part 6. of subparagraph (f) of paragraph (11) of rule 1200-3-9-.02 Operating Permits is amended by substituting for the word "Case" the word "Cause" so that, as amended, the part shall read:

6. Reopening for Cause

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

This notice of rulemaking set out herein was properly filed in the Department of State on the 28th day of September, 2006. (09-13-06)