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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 & Conservation
Division:	Air Pollution Control
Contact Person:	Lacey J. Hardin
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, TN 37243
Phone:	(615) 532-0545
Email:	Lacey.Hardin@tn.gov

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, 22nd Floor Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or 615-532-0200 Hearing impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Beverly.Evans@tn.gov

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

Address 1:	Conference Room A		
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 th Floor		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date :	11/02/16		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> X 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 Rules and the State Implementation Plan (or "SIP") 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 the Board's consideration in regards to the proposed regulatory amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. Section 4-5-201 et seq., and will take place in the 15th Floor Conference Room A, William R. Snodgrass Tennessee Tower, located at 312 Rosa L. Parks Avenue, Nashville, Tennessee 37243 at 9:30 AM CDT on November 2, 2016. Written comments will be included in the hearing records if received by the close of business on November 2, 2016, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, located at 312 Rosa L. Parks Avenue 15th Floor, Nashville, Tennessee 37243. Additionally, comments may be submitted via attachments through electronic mail to Air.Pollution.Control@tn.gov until the close of business on November

2, 2016.

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 10 days prior to November 2, 2016, 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, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue 22nd Floor, Nashville, TN 37243, (866) 253-5827. Hearing impaired callers may use the Tennessee Relay Service, (800) 848-0298.

If you have any questions about the origination of these rule changes, you may contact Lacey J. Hardin at (615) 532-0545. For complete copies of the text of the notice, please contact Lacey J. Hardin, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue 15th Floor, Nashville, TN 37243 or via e-mail at Lacey.Hardin@tn.gov.

These proposed amendments to Chapters 1200-03-09 and 1200-03-26 will allow the Technical Secretary of the Air Pollution Control Board to streamline the permitting process for certain small sources only subject to permitting because of federal requirements. Many of these sources will be eligible to seek coverage under a "permit-by-rule" rather than traditional construction and operating permits. The sources will be required to register their sources with the Division of Air Pollution Control and must meet all applicable requirements, but will not be subject to the traditional permitting processes. The proposed amendments also clarify some of the requirements for general permits, and relieve sources eligible for coverage under a general permit or authorization under permit-by-rule of construction permit application fees and annual emission fees. The proposed amendments clarify certain other provisions of these chapters and correct typographical errors.

Revisions considered at this hearing may be adopted by the Tennessee Air Pollution Control Board under Tenn. Code Ann. Section 68-201-105, the Board general authority to promulgate rules. 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 rule revisions and revisions to the State Implementation Plan. Any person desiring to present lengthy comments should be prepared at the hearing to offer a written statement to be incorporated into the record. Written statements not presented at the hearings will only be considered part of the records if received by 4:30 PM on November 2, 2016, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue 15th Floor, Nashville, TN 37243.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. 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-.03	General Provisions
1200-03-09-.04	Exemptions
1200-03-09-.06	General Permits

Chapter Number	Chapter Title
1200-03-26	Administrative Fee Schedule
Rule Number	Rule Title
1200-03-26-.02	Administrative Fees

(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>)

Chapter 1200-03-09
Construction and Operating Permits

Amendments

The Table of Contents for Chapter 1200-03-09 Construction and Operating Permits is amended by adding a new Rule 1200-03-09-.07 with the title: Permits-by-Rule.

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

Paragraph (1) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

(1) Application for Construction Permit

- (a) Except as specifically exempted in Rule 1200-03-09-.04, no person shall begin the construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants without first having applied for and received from the Technical Secretary a construction permit or, if applicable, submitted a notice of intent and obtained a notice of coverage or authorization, for the construction or modification of such air contaminant source.
- (b) The application for a construction permit shall be made on forms available from the Technical Secretary not less than ninety (90) days prior to the estimated starting date of construction. Sources identified in paragraph (4) or (5) of this rule 1200-03-09-.01(4) shall make application for a construction permit as provided in such paragraph not less than one hundred twenty (120) days prior to the estimated date of construction.
- (c) In addition to the information provided in the construction permit application forms, the Technical Secretary may require submission, by the owner or operator of a source to be constructed or modified, of such information on the nature and amounts of air contaminants to be emitted by the source or emitted by associated mobile sources, and any other information necessary to insure compliance with the regulations of this Division, Division 1200-03, and the Board-approved Board-approved control strategy, and the Tennessee Air Quality Act.
- (d) Construction of a new air contaminant source or the modification of an air contaminant source which may result in the discharge of air contaminants must be in accordance with the approved construction permit application, notice of intent, the provisions and stipulations set forth in the construction permit, notice of coverage, or notice of authorization, all provisions of the regulations of this Division 1200-03, 1200-03; any applicable measures of the control strategy, strategy; and all provisions of the Tennessee Air Quality Act.
- (e) No construction permit shall be issued by the Technical Secretary if the approval to construct or modify an air contaminant source would result in a violation of the ambient air quality standards specified in Chapter 1200-03-03, would cause a violation of any other regulatory requirement under this Division, Division 1200-03, would result in a violation of applicable portions of the control strategy, or would interfere with attainment or maintenance of a national ambient air quality standard in a neighboring state. In the case where a source or modification was constructed without first obtaining a construction permit, a construction permit may be issued to the source or modification to establish as conditions of the permit, the necessary emission limits and requirements to assure that these regulatory requirements are met. The appropriate enforcement action shall be pursued to insure that ambient air quality standards and other regulatory requirements will be met. All emission limits and requirements of the construction permit must be met prior to issuance of an operating permit for the source or modification.
- (f) In the issuance of construction permits for new air contaminant sources, or modifications, source impact analysis shall demonstrate that allowable emission increases would not cause or

contribute to air pollution in violation of any ambient air quality standard in Chapter 1200-03-03, of any national ambient air quality standard, or any applicable maximum allowable increase as defined in paragraph (4) of this rule 1200-03-09-.01(4). As required, all estimates of ambient concentrations shall be based on applicable air quality models, and data bases acceptable to the Technical Secretary, and meeting the requirements in the EPA publication No. 450/2-78-027R, "Guidelines on Air Quality Models (revised)" (1986), Supplement A (1987), and Supplement C (1995) which are incorporated by reference. The Technical Secretary may approve use of a modified or another model on a case-by-case basis after consultation with and upon written approval from the EPA Administrator.

- (g) In the issuance of construction permits for new air contaminant sources or modifications, the degree of emission limitation required of any source for control of any air contaminant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique except as provided for in Chapter 1200-03-24 of these regulations.
- (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. The 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 Unless otherwise specified in the general permit, the requirements of this subparagraph are considered to be met for notices of intent for general permits as described in Rule 1200-03-09-.06 by monthly publication on the Department's website of a list of facilities requesting to be covered by applicants for coverage under a general permit for construction or modification of an air contaminant source.
- (i) Reserved.
- (j) The Technical Secretary may elect to issue minor source combination construction/operating permits. Sources issued such permits are considered to be in compliance with paragraphs (1), (2), and (3) of Rule 1200-03-09-.02 if all conditions in the permit are complied with and the permittee applies for renewal of the operating permit as specified in the permit.

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

Paragraphs (1) and (2) of Rule 1200-03-09-.02 Operating Permits are amended by deleting them in their entirety and substituting instead the following:

- (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 Rule~~ Rule 1200-03-09-.01 of this chapter shall apply for and receive from the Technical Secretary an operating permit ~~from the Technical Secretary or, if applicable, submit a notice of intent and obtain a notice of coverage or authorization~~ after initial start-up of ~~this said the~~ 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 as that paragraph (3) of this rule is complied with, except as otherwise allowed in paragraph (11) of this rule.
- (2) No person shall operate an air contaminant source in Tennessee without first obtaining from the Technical Secretary an operating permit ~~from the Technical Secretary or, if applicable, submitting a notice of intent and obtaining a notice of coverage or authorization~~, except as specifically exempted in ~~rule Rule~~ Rule 1200-03-09-.04 of this chapter. New sources operating with a valid construction permit may operate with the construction permit for the time period specified in paragraph (1) ~~above of this rule, except as otherwise allowed in paragraph (11) of this rule.~~

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

Paragraph (10) of Rule 1200-03-09-.02 Operating Permits is amended by deleting it in its entirety and substituting instead the following:

- (10) Those sources possessing a valid permit on the ~~data date~~ chapter 1200-03-19 becomes effective and subject to a specified compliance schedule in chapter 1200-03-19 must comply with all the requirements contained in the permit and the requirements of ~~rule Rule~~ 1200-03-09-.02 ~~of this chapter~~. All permits shall expire on the date the emission standard specified in chapter 1200-03-19 becomes effective. If a source possessing a valid operating permit and subject to a specified compliance schedule contained in chapter 1200-03-19 fails to comply with the specified schedule, such permit will be revoked upon notification that the source has not complied with the schedule and opportunity for hearing by the Technical Secretary.

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

Rule 1200-03-09-.02 Operating Permits is amended by adding paragraph (12) to read as follows:

12. The Technical Secretary may elect to issue minor source combination construction/operating permits. Sources issued such permits are considered to be in compliance with paragraph (1) of Rule 1200-03-09-.01 and paragraphs (1), (2), and (3) of this rule if all conditions in the permit are complied with and the permittee applies for renewal of the operating permit as specified in the permit.

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

Paragraph (1) of Rule 1200-03-09-.03 General Provisions is amended by deleting it in its entirety and substituting instead the following:

- (1) ~~Irrespective of Notwithstanding~~ 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: §§ 68-201-101 et seq. and 4-5-201 et seq.

Paragraphs (6) and (7) of Rule 1200-03-09-.03 General Provisions are amended by deleting them in their entirety and substituting instead the following:

- (6) Ownership Change

~~An operation and/or construction permit is not transferable from one person to another person, nor from one air contaminant source to another air contaminant source, nor from one location to another location. Applications for construction permits by the new owner or operator of the new air contaminant source, or by the owner or operator of the air contaminant source at the new location shall be required as if there had been no previous construction permit issued. The new construction permit will address only rules in effect at the time of its issuance.~~

- (a) An operating permit, construction permit, notice of coverage, or notice of authorization is transferable from one person to another person provided that:

1. Written notification of the ownership change is submitted to the Technical Secretary no later than thirty (30) days after the change; and

2. The new owner or operator:

- (i) Does not make any changes to the stationary source that meet the definition of modification as defined in this Division 1200-03, and

- (ii) Agrees to abide by the terms of the permit or notice of coverage or authorization, Division 1200-03 and any agreements made by the previous owner.

- (b) No operating permit, construction permit, notice of coverage, or notice of authorization is transferable from one air contaminant source to another air contaminant source or from one

location to another location. The new operating permit, construction permit, notice of coverage, or notice of authorization required by this subparagraph will be governed by rules in effect at the time of its issuance.

- (7) The Technical Secretary may suspend or revoke any construction ~~or permit~~, operating permit, notice of coverage, or notice of authorization if the ~~permit~~ holder fails to comply with the provisions, stipulations, or compliance schedules specified in the permit, notice of coverage, or notice of authorization all provisions of these regulations; Division 1200-03; and ~~all provisions of~~ the Tennessee Air Quality Act. Upon ~~permit~~ suspension or revocation of a permit or notice of coverage or authorization, if the ~~permit~~ holder fails to take remedial action, ~~he then the holder~~ shall become immediately subject to additional enforcement actions prescribed by law.

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

Paragraph (1) of Rule 1200-03-09-.04 Exemptions is amended by deleting it in its entirety and substituting instead the following:

- (1) The permit exemptions listed in paragraph (4) of this ~~rule, rule~~ do not apply if an air contaminant source is subject to a standard or requirement contained in the following except where specifically stated:

Chapter 1200-03-11 (Hazardous air contaminants)
Chapter 1200-03-18 (Volatile organic compounds)
Chapter 1200-03-19 (Emission standards and monitoring requirements for additional control areas)
Chapter 1200-03-22 (Lead emission standards)
Chapter 1200-03-27 (Nitrogen oxides)
Paragraph 1200-03-31-.05(2) (Case by case determinations of hazardous air pollutant requirements)

In addition, the exemption provided for the air contaminant sources in paragraph (4) of this rule does not exempt ~~them the sources~~ from inclusion in determining if a major stationary source or major modification construction permit is required under paragraph paragraphs (4) and (5) of Rule 1200-03-09-.01(4) and paragraph 1200-03-09-.01(5).

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

Part 3 of subparagraph (a) of paragraph (2) of Rule 1200-03-09-.04 Exemptions is amended by deleting it in its entirety and substituting instead the following:

3. “Insignificant activity” or “insignificant emissions unit” means any activity or emissions unit at a stationary source for which the emissions unit or activity has ~~a the~~ potential to emit less than 5 tons per year of each air contaminant and each regulated air pollutant that is not a hazardous air pollutant, and less than 1,000 pounds per year of each hazardous air pollutant unless specifically excluded from designation as an insignificant activity or insignificant emissions unit elsewhere in this Division 1200-03.

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

Subparagraphs (b) and (c) of paragraph (2) of Rule 1200-03-09-.04 Exemptions are amended by deleting them in their entirety and substituting instead the following:

- (b) Notwithstanding the permit exemptions granted in paragraph ~~1200-03-09-.04(4)~~ of this rule, no person shall discharge, from any source whatsoever, such quantities of air contaminants or other materials which cause or have a tendency to cause injury, detriment, annoyance, or adverse effect to the public.
- (c) Notwithstanding any other provision of Division ~~1200-3~~ 1200-03, no emissions unit or activity subject to a federally enforceable applicable requirement ~~(other than generally applicable requirements of the state implementation plan)~~ not included in this Division 1200-03 (other than generally applicable requirements of the state implementation plan) shall qualify as an insignificant emissions unit or activity. For purposes of this paragraph, generally applicable requirements of the state implementation plan are those federally enforceable requirements that apply universally to all emission units or activities without reference to specific types of emission

units or activities except for the sulfur dioxide standards for those categories and classes included in Chapter 1200-03-14.

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

Parts 5, 6, and 7 of subparagraph (d) of paragraph (4) of Rule 1200-03-09-.04 Exemptions are amended by deleting them in their entirety and substituting instead the following:

5. Brazing, soldering, or welding equipment which does not emit lead in amounts equal to or greater than ~~0.6~~ 0.5 tons per year.
6. Sources that are not owned or operated by the State within the counties of Shelby, Davidson, Hamilton, and Knox until such time as the Board shall determine that air pollution is not being controlled in such county to a degree at least as stringent as the substantive provisions of the Tennessee Air Quality Act and regulations adopted pursuant thereto. This exemption does not apply to any air contaminant source in those counties if the local regulation is less stringent than the applicable state regulation.
7. Automobile body ~~shops~~ shops not subject to the requirements of 40 CFR 63 subpart HHHHHH, including paint spraying, grinding and polishing operations. This exemption does not apply to sources in ozone nonattainment areas which emit more than 15 pounds per day of volatile organic compounds.

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

Parts 15 and 16 of subparagraph (d) of paragraph (4) of Rule 1200-03-09-.04 Exemptions are amended by deleting them in their entirety and substituting instead the following:

15. Surface coating and degreasing operations which do not exceed a combined total usage of more than 60 gallons/month of coatings, thinners, clean-up solvents, and degreasing solvents at any one plant location, and ~~does do~~ not exceed 1,000 pounds per year of each hazardous air pollutant.
16. Repair and maintenance, cleaning and degreasing operations which do not exceed more than 145 gallons in any twelve (12) month period, and ~~does do~~ not exceed 1,000 pounds per year of each hazardous air pollutant.

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

Part 1 of subparagraph (c) of paragraph (5) of Rule 1200-03-09-.04 Exemptions is amended by deleting it in its entirety and substituting instead the following:

1. Notwithstanding any other provision of paragraph ~~(11)~~ (11) of Rule 1200-03-09-.02(11), no emissions unit or activity subject to a federally enforceable applicable requirement ~~(other than generally applicable requirements of the state implementation plan)~~ not included in this Division 1200-03 (other than generally applicable requirements of the state implementation plan) shall qualify as an insignificant emissions unit or activity. For purposes of this paragraph, generally applicable requirements of the state implementation plan are those federally enforceable requirements that apply universally to all emission units or activities without reference to specific types of emission units or activities except for the sulfur dioxide standards for those categories and classes included in Chapter 1200-03-14.

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

Subparagraph (f) of paragraph (5) of Rule 1200-03-09-.04 Exemptions is amended, without changing the parts that follow, by deleting the introductory language in its entirety and substituting instead the following introductory language:

(f) Unless specifically required under part ~~1200-03-09-.04(5)(b)4~~. (b)4 of this paragraph, the SS-7037 (July 2014)

following emission units or activities, or stationary sources that qualify as 'insignificant activities', with the exception of parts ~~19. and 84.~~ 19 and 84 of this subparagraph, are not required to be included in a permit application under paragraph ~~(11) of Rule~~ 1200-03-09-.02(11). For the following listed activities to be considered insignificant, with the exception of parts ~~1., 2., 19., and 84~~ 1, 2, 19 and 84 of this subparagraph, the emissions unit or activity must have a potential to emit less than 5 tons per year of each regulated air pollutant that is not a hazardous air pollutant and less than 1000 pounds per year of each hazardous air pollutant. No emissions unit or activity subject to a federally enforceable applicable requirement ~~(other than generally applicable requirements of the state implementation plan)~~ not included in this Division 1200-03 (other than generally applicable requirements of the state implementation plan) shall qualify as an insignificant emissions unit or activity.

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

Part 61 of subparagraph (f) of paragraph (5) of Rule 1200-03-09-.04 Exemptions is amended by deleting it in its entirety and substituting instead the following:

61. Electric stations, including transformers, and substations, unless a federal requirement not incorporated into this Division 1200-03 applies. Any activity is not insignificant if it is subject to MACT standard under Chapter 1200-03-31.

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

Rule 1200-03-09-.06 General Permits is amended by deleting it in its entirety and substituting instead the following:

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 Technical Secretary~~ may issue general permits for the purpose of covering numerous similar sources that are owned or operated by different persons at different facilities.
 - (3) Notwithstanding 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) A notice of intent for coverage under 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.
(b) A general permit serving as a construction permit shall be subjected to public notice and an opportunity for public participation by prominent advertisement in each air quality control region. The notice shall specify the types of sources to be covered by the permit and the terms of the permit 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.
 - (5) The permit shall specify the eligibility criteria by which sources may qualify for the general permit and shall state both the process by which an owner or operator of a source notifies the Technical Secretary that ~~it the owner or operator~~ requests the source to be authorized covered under the general permit and the means by which the Technical Secretary confirms that the source is either covered by the general permit or requires an individual permit. The source owner or operator constructing and/or operating a source 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 owner or operator of the source requested

coverage under a general permit by representing itself the source to be eligible for a general permit in the source's 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 Owners or operators of 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 Technical Secretary may, in the general permit, provide for the specify 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 the notice of intent includes all information necessary to determine qualifications for and to assure compliance with, the general permit.
- (7) If either an owner or operator of a source covered by a general permit or the Division Technical Secretary determines that the source no longer qualifies for such permit, the source shall submit a Notice of Termination notice of the change in status to the Division within thirty (30) days of either such determination by the source or notification by the Division Technical Secretary, whichever occurs first.
- (8) Duration of Permits. General Permits permits shall be issued for a fixed term, not to exceed ten (10) years, which shall be stated in the permit.

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

Chapter 1200-03-09 Construction and Operating Permits is amended by adding the following as a new Rule 1200-03-09-.07 Permits-by-Rule:

1200-03-09-.07 Permits-by-Rule

(1) Definitions.

As used in this rule and Rule 1200-03-09-.06, all terms not defined by this paragraph shall have the meaning given to them in this chapter and all terms not defined in this chapter shall have the meaning given to such terms in Chapter 1200-03-02.

- (a) “Permit-by-Rule” means a permit under which an owner or operator is authorized to construct, modify, or operate an eligible true minor air contaminant source if such construction, modification, or operation is in compliance with this rule and rules promulgated pursuant to this rule specifically applicable to such source.
- (b) “Notice of authorization” or “NOA” means a confirmation from the Technical Secretary of authorization to construct, modify, or operate a minor air contaminant source under a permit-by-rule.
- (c) “Notice of coverage” or “NOC” means a confirmation from the Technical Secretary of coverage under a general permit.
- (d) “Notice of intent” or “NOI” means a written notification requesting coverage under a general permit or authorization under a permit-by-rule.

(2) Applicability

- (a) 1. An owner or operator of a source that is a member of a category of air contaminant sources listed in paragraph (5) of this rule may obtain a notice of authorization under a permit-by-rule to construct, modify, or operate the source instead of obtaining an individual construction or operating permit for such construction, modification, or operation if the air contaminant source is eligible. An eligible air contaminant source is an air contaminant source that is not excluded by paragraph (4) of this rule and meets the qualifying criteria established by the applicable permit-by-rule. The Technical Secretary may, with cause, refuse to issue a notice of authorization and require an owner or operator to follow the standard permitting procedures as otherwise required by this chapter.

2. An owner or operator remains authorized pursuant to an NOA to construct, modify, or operate an air contaminant source under a permit-by-rule if the air contaminant source continues to be eligible and the owner or operator is in compliance with this rule and the applicable permit-by-rule. Upon request by the Technical Secretary, the owner or operator of a source that fails to meet the qualifying criteria established in the applicable permit-by-rule or fails to comply with this rule and the applicable permit-by-rule shall submit an application for an individual construction or operating permit or both.

(b) This rule does not exempt any air contaminant source from any requirements of the federal Clean Air Act, the Tennessee Air Quality Act, or of this Division 1200-03, including being considered for purposes of determining whether a facility constitutes a major source or is otherwise regulated under this Division 1200-03 or any requirement to list insignificant activities and emission levels in a Title V permit application. In addition, this rule does not relieve the owner or operator from the requirement of including the emissions associated with the exempt sources into any major NSR permitting action.

(3) General provisions

The provisions of this paragraph apply to any owner or operator constructing, modifying, or operating an air contaminant source under an NOA unless otherwise stated in a permit-by-rule specific to such source.

(a) Recordkeeping requirements

1. The owner or operator shall collect and maintain the records required for each air contaminant source to which an NOA applies. These records shall be retained in the owner or operator's files for a period of not less than five (5) years and shall be made available to the Technical Secretary or any authorized representative of the Technical Secretary for review upon request.

2. Records include, but are not limited to, any monitoring data, testing data, and support information required by the applicable permit-by-rule and shall be retained for a period of five (5) years from the date the record was created. Support information includes, but is not limited to, all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the specific permit-by-rule. Records may be maintained in computerized form.

(b) Notification requirements for new installations

The owner or operator of an air contaminant source to be installed on or after the effective date of a permit-by-rule electing to be authorized to construct, modify, or operate under the permit-by-rule shall submit an NOI in a form and manner prescribed by the Technical Secretary prior to installation of the air contaminant source. The NOI must be submitted to the Technical Secretary not less than seven (7) days prior to the estimated start date of construction, and shall contain the following information, at a minimum:

1. The owner's or operator's name and the facility contact's name;

2. The facility mailing address and telephone number;

3. The location of the air contaminant source(s);

4. A description of the air contaminant source(s), including any pollution control(s);

5. A statement by the owner or operator that indicates the permit-by-rule under which construction, modification, or operation of the air contaminant source will be authorized;

6. The estimated start date of construction; and

7. A signed statement that the proposed air contaminant source(s) qualifies to be covered under this rule and the applicable permit-by-rule.

(c) Notification requirements for existing permitted sources

1. An owner or operator of an air contaminant source which is operating under an existing construction or operating permit may continue to operate in compliance with that permit or may submit an NOI in the form and manner prescribed by the Technical Secretary that contains at a minimum the applicable information required by the Technical Secretary under subparagraph (b) and a written request to the Technical Secretary to revoke the existing permit or permits.
2. The Technical Secretary may issue the requested NOA and revoke a construction or operating permit pursuant to this paragraph if an NOA may be issued to the permittee pursuant to paragraph (2) and the Technical Secretary determines that the revocation will not result in the violation of any applicable laws. When an owner or operator submits an NOI and revocation request pursuant to this paragraph, the Technical Secretary, without prior hearing, shall make a final determination on the request and either issue the NOA and revoke the existing permit or permits or inform the permittee in writing of the Technical Secretary's denial. The NOA is effective on the date the existing permit is revoked.

(d) Reporting requirements

The owner or operator shall submit required reports in the following manner:

1. Reports of any monitoring or recordkeeping information required by a permit-by-rule shall be submitted to the Division at the physical address or e-mail address provided in the notice of authorization or as specified in an official notification from the Division.
2. A written report of any deviations (excursions) from emission limitations, operational restrictions, qualifying criteria, and control equipment operating parameter limitations that have been detected by the testing, monitoring, and recordkeeping requirements specified in the permit-by-rule shall be submitted to the Division within thirty (30) days of the date the deviation occurred. The report shall describe the specific limitation or operational restriction exceeded, the probable cause of such deviation, and any corrective actions or preventive measures that have been or will be taken.

(e) Scheduled maintenance/malfunction reporting

Any scheduled maintenance of air pollution control equipment shall be performed in accordance with the requirements of the applicable permit-by-rule. The malfunction of any emissions units or any associated air pollution control system(s) shall be reported to the Division in accordance with chapter 1200-03-20. Except as provided in chapter 1200-03-20, any scheduled maintenance or malfunction necessitating the shutdown or bypassing of any air pollution control system(s) shall be accompanied by the shutdown of the emissions unit(s) that is served by such control system(s).

- (f) Any person in possession of a notice of authorization under a permit-by-rule shall ensure that the notice of authorization is readily available for inspection by the Technical Secretary or the Technical Secretary's designated representative on the operating premises or an alternate location approved by the Technical Secretary.

(4) Exclusions from eligibility

- (a) No stationary source with the potential to emit of 100 tons per year or more of any air pollutant subject to regulation is eligible to be authorized under a permit-by-rule.
- (b) No stationary source with the potential to emit of ten (10) tons per year or more of a single hazardous air pollutant or twenty-five (25) tons per year or more of any combination of hazardous air pollutants is eligible to be authorized under a permit-by-rule.

(c) Stationary sources of nitrogen oxides or volatile organic compounds located in areas designated serious, severe, or extreme non-attainment for ozone by the U.S. EPA that otherwise would be eligible to be authorized under a permit-by-rule but have the potential to emit ten (10) tons per year or more of these precursor pollutants cannot be authorized under a permit-by-rule.

(5) Source categories potentially eligible for permit-by-rule:

(a) Gasoline dispensing facilities (GDFs).

(b) Reserved.

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

Chapter 1200-03-26
Administrative Fees Schedule

Amendments

Subparagraph (b) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting the following:

(b) "A Source subject to Fees (Source)" is any and all sources of emission of air contaminants, whether privately or publicly owned or operated, that is required to obtain a permit ~~from the Division.~~

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

Paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by adding a new subparagraph (j) to read as follows:

(j) No fee shall be imposed for review of notices of intent for coverage under a general permit or authorization under a permit-by-rule; issuance of the notice of coverage or authorization; or costs associated with monitoring or inspection conducted relative to the source covered or authorized by the notice.

Authority: §§ 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: September 8, 2016

Signature: _____

Name of Officer: Michelle W. Owenby

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: September 8, 2016

Notary Public Signature: _____

My commission expires on: January 11, 2017

Department of State Use Only

Filed with the Department of State on: _____

Tre Hargett
Secretary of State