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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:	Air Pollution Control Board
Division:	Air Pollution Control
Contact Person:	Hannah Nodell
Address:	Davy Crockett Tower, 7 th Floor 500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	(615) 454-8332
Email:	Hannah.Nodell@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:	Davy Crockett Tower, 6th Floor 500 James Robertson Parkway Nashville, Tennessee 37243
Phone:	615-532-0200 Hearing-impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Ask.tdec@tn.gov

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

Address 1:	Conference Room 1-A
Address 2:	Davy Crockett Tower 500 James Robertson Parkway
City:	Nashville, Tennessee
Zip:	37243
Hearing Date:	09/08/2026
Hearing Time:	1:30 p.m. ☒ CST/CDT ☐ EST/EDT

Alternate Hearing Option

Method 1:	You may also join electronically. Join by going to this link: https://tn.webex.com/tn/j.php?MTID=m716a320e4581a846fd321ab451b085c2 Meeting number (access code): 2307 417 5840 Meeting password: ZhDsMZK6J32
Method 2:	Join by phone 1-415-655-0001 Access code: 94376956

	Global call-in numbers are available online at: Link for Global Call-in Numbers Join from a video system or application Dial 23074175840@tn.webex.com You can also dial 173.243.2.68 and enter the meeting number
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Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Ellen Sherril at (615) 532-0105 or tdec.titlevi@tn.gov for more information. Si le resulta difícil leer, hablar o entender inglés, TDEC puede proporcionar servicios de traducción o interpretación sin cargo. Comuníquese con Ellen Sherril at (615) 532-0105 o tdec.titlevi@tn.gov para obtener más información.

The Air Pollution Control Board proposes to amend its rule governing the filing and conduct of permit appeals to align with the relevant provisions of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -122. These amendments are necessary to ensure that the appeals process set forth in the Tennessee Air Pollution Control Regulations provides a clear, consistent, and legally correct framework for permit appeals.

The Air Pollution Control Board is also proposing these revisions as changes to Tennessee's State Implementation Plan.

Oral or written comments are invited at the hearing. In addition, comments may be submitted prior to or after the public hearing to: Department of Environment and Conservation, Division of Air Pollution Control, Davy Crockett Tower, 500 James Roberson Parkway, 7th Floor, Nashville, Tennessee 37243 or via email to Air.Pollution.Control@tn.gov. However, such written comments must be received by 4:30 PM Central Time, on September 8, 2026, to assure consideration. For further information, please contact Hannah Nodell at the above address or telephone number or by e-mail at Hannah.Nodell@tn.gov.

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-.05	Appeal of Permit Application Denials and Permit Conditions

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/publications/services/rulemaking-guidelines>.

Chapter 1200-03-09
Construction and Operating Permits

Amendments

Rule 1200-03-09-.05 Appeals of Permit Application Denials and Permit Conditions is amended by deleting it in its entirety and substituting instead the following:

1200-03-09-.05 ~~Appeal of Permit Application Denials and Permit Conditions Appeals.~~

- (1) ~~In any case where the Technical Secretary or the Department denies a permit application, this denial is appealable to the Board if a petition of appeal is received by the Technical Secretary within thirty (30) days of receipt of the denial letter by the owner or operator. Permittees, applicants for permits, and aggrieved parties meeting the criteria of paragraph (3) of this rule who disagree with the denial, terms, or conditions of a permit may seek review of the Technical Secretary's decision by the Board pursuant to T.C.A. § 68-201-108.~~
- (2) ~~The letter of denial of the application shall include the basis for denial and notify the party of their right to appeal and of the right to legal counsel. All petitioners shall specify the basis for their appeal and state a claim for relief based on an alleged inconsistency with the Act or the rules promulgated thereunder. Permittees and applicants for permits shall specify what terms or conditions they are appealing in their petition. Only those terms or conditions specified in the petition will be considered subject to appeal. For permit modifications, only those terms that were the subject of the modification may be appealed. Aggrieved parties shall specify facts sufficient to establish that they have satisfied the criteria of paragraph (3) of this rule and otherwise have standing to appeal.~~
- (3) ~~The reasons the petitioner feels the permit should have been granted must be filed as part of the petition. Additionally a party may request prehearing discovery, as provided in T.C.A. § 4-5-306, by filing and detailing the request with the petition. In order to be entitled to a review of the Technical Secretary's permit decision, aggrieved parties shall have:~~
 - ~~(a) Submitted a written comment during the public comment period; or~~
 - ~~(b) Given testimony at a formal public hearing on the permit application.~~
- (4) ~~Within thirty (30) days of receipt of the petition for appeal of a permit denial, the Technical Secretary shall notify the petitioner of the time and place for the hearing. The basis for the appeal for aggrieved parties may only include issues that:~~
 - ~~(a) Were provided to the Technical Secretary in writing during the public comment period;~~
 - ~~(b) Were provided to the Technical Secretary in testimony at a formal public hearing on the permit application; or~~
 - ~~(c) Arise from any material change to conditions in the final permit from those in the draft, unless the material change has been subject to additional opportunity for public comment.~~
- (5) ~~In any case where a condition is placed on a permit, the imposition of that permit condition may be appealed by filing a petition for reconsideration of the permit conditions. The petition for reconsideration of permit conditions shall specify which conditions and portions of conditions are objected to and specifying in detail the objections. The petition of appeal must be delivered to the Technical Secretary within thirty (30) days after the mailing date of the permit. If the Technical Secretary is considering denying the petition he shall schedule a conference with the petitioner to discuss the matters under appeal within forty-five (45) days of receipt of the petition. If the Technical Secretary's resultant decision on the matter under appeal aggrieves the petitioner, the petitioner may request a hearing pursuant to T.C.A. § 68-25-108. A petition for permit appeal shall be filed with the Technical Secretary within 30 days after the final decision to issue or deny the permit is posted on the Department website.~~

- (6) ~~All applicable provisions of T.C.A. §§ 4-5-301 et seq., on contested cases shall apply to the hearing before the Board on such appeals. Appeal petitions should be filed by electronic mail at TDEC.Appeals@tn.gov. Persons filing an appeal by electronic mail to this address do not need to send a paper copy. Although filing by electronic mail is strongly encouraged, appeals may also be filed by mail or delivery to the Department, c/o Office of General Counsel, Davy Crockett Tower, 5th Floor, 500 James Robertson Parkway, Nashville, TN 37243.~~
- (7) ~~The denial of a permit application by the Technical Secretary stands, unless the majority of a quorum of the Board votes to overturn the denial after the hearing. Any action taken by the Technical Secretary regarding a permit remains in effect unless and until an order of the Board or a reviewing court becomes final.~~
- (8) ~~A permit condition specified by the Technical Secretary after the hearing provided for in paragraph (5) stands unless on appeal the Board votes to modify or delete the condition by a majority of a quorum of the Board.~~

Authority: T.C.A. §§ 4-5-201 et seq., 4-5-301 et seq., and 68-201-101 et seq.

The table of contents to Chapter 1200-03-09 Construction and Operating Permits is amended to revise the title of Rule 1200-03-09-.05 to read "Permit Appeals," so that as amended the table of contents will read as follows:

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-.05 ~~Appeal of Permit~~ ~~Application Denials and Permit Conditions~~ Appeals
1200-03-09-.06 General Permits
1200-03-09-.07 Permits-by-Rule

Authority: T.C.A. §§ 4-5-201 et seq. and 68-201-101 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: July 10, 2026

Signature: _____

Name of Officer: Michelle W. Owenby

Title of Officer: Director of the Division of Air Pollution Control

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State