CHAPTER 1200-3-9
CONSTRUCTION AND OPERATING PERMITS

1200-3-9-.01 CONSTRUCTION PERMITS

(1) Application for Construction Permit

(a) Except as specifically exempted in Rule 1200-3-9-.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 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 1200-3-9-.01- (4) shall make application for a construction permit 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, 1200-3, and the Board approved control strategy.

(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, the provisions and stipulations set forth in the construction permit, all provisions of the regulations of this Division 1200-3, any applicable measures of the control 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 1200-3-3, would cause a violation of any other regulatory requirement under this Division, 1200-3, 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 1200-3-3, of any national ambient air quality standard, or any applicable maximum allowable increase as defined in paragraph 1200-3-9-.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 1200-3-24 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. 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.

(i) Reserved

(2) **Definitions.** As used in this chapter all terms not defined herein or in subsequent parts of this chapter shall have the meaning given them in Chapter 1200-3-2.

(a) Reserved

(b) **"Control Strategy"** means a combination of measures, approved by the Board, designated to achieve the aggregate reduction of emissions necessary for attainment and maintenance of the ambient air quality standards specified in the regulations under this Division 1200-3, or of the national ambient air quality standards including, but not limited to measures such as:

1. Emission limitations.

2. State emission charges or other economic incentives or disincentives.

3. Closing or relocation of residential, commercial, or industrial facilities.

4. Changes in schedules or methods of operation of commercial or industrial facilities or transportation systems, including, but not limited to, short term changes made in accordance with standby plans.

5. Periodic inspection and testing of motor vehicle emission control systems, at such time it is determined that such programs are feasible and practicable.

6. Emission control measures applicable to in-use motor vehicles, including, but not limited to, measures such as mandatory maintenance, installation of emission control devices, and conversion of gaseous fuels.

7. Any transportation control measures considered feasible and practicable.

8. Any variation of, or alternative to any measure delineated herein.

9. Control or prohibition of a fuel or fuel additive used in motor vehicles, if such control or prohibition is necessary to achieve a primary or secondary air quality standard, or national primary or secondary standard, and is approved by the Technical Secretary.

(c) **"National Ambient Air Quality Standard"** means any ambient standard for an air contaminant promulgated by the Administrator of the Environmental Protection Agency and published in the Code of Federal Regulations.

(d) **"Best available control technology (BACT)"** means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under these rules which would be emitted from any proposed new or modified air contaminant source which the Technical Secretary, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Chapters 1200-3-11 and 1200-3-16 of these rules. If the Technical Secretary determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, a design, equipment, work practice, or operational standard, or combination thereof, may be prescribed instead to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(e) **"Lowest achievable emission rate"** (LAER) means, for any stationary source the more stringent rate of emissions based on the following:

1. The most stringent emissions limitation which is contained in the applicable standards under this Division 1200-3, or in any State Implementation Plan for such class or category of stationary source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

2. The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any air contaminant in excess of the amount allowable under applicable new source standards of performance.

(3) Reserved.

(4) **Prevention of Significant Air Quality Deterioration [PSD]**

(a) General Provisions

1. No major stationary source or major modification, as defined in parts (b)1. and (b)2. of this paragraph, shall begin actual construction unless the requirements of this paragraph, as applicable, have been met.

2. The requirements of this paragraph shall only apply to a proposed major stationary source, or major modification with respect to any pollutant which is emitted in significant amounts, or would result in a significant net emissions increase of the pollutant respectively. Also, the requirements of this paragraph do not apply to proposed pollutant emission sources or modifications in a nonattainment area as defined in Chapter 1200-3-2 for any pollutant to be emitted by the proposed source or modification for which the area is classified nonattainment.

3. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this paragraph or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this paragraph who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

4. Approval to construct shall become invalid if construction is not commenced within 18 months after issuance of an approved permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the completion date specified on the construction permit application. The Tennessee Air Pollution Control Board may grant an extension to complete construction of the source provided adequate justification is presented. An extension shall not exceed 18 months in time. The provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

5. Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions under this Division 1200-3 and any other requirements under local, State, or Federal law.

6. If a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this paragraph shall apply to the source or modification as though construction had not yet commenced on the source or modification.

7. Permit Rescission

   (i) Any permit for a prevention of significant air quality deterioration (PSD) source or modification that was issued according to the rules and regulations contained in paragraph 1200-3-9-.01-(6) will remain in effect and binding until such time as the permittee files a completed application to obtain rescission. This application for rescission may be filed at any time by the permittee.

   (ii) The Technical Secretary shall approve any application for rescission if the application shows that this paragraph 1200-3-9-.01-(4), would not apply to the source or modification.

   (iii) If requested by the permittee, the Technical Secretary may rescind only certain elements required in a PSD permit issued on or before the effective date of this paragraph, 1200-3-9-.01-(4).

(iv) Those sources subject to PSD review before August 7, 1977 shall not be allowed to apply for a PSD permit rescission if construction has "commenced" by August 7, 1977.

(v) If a source or modification whose permit is rescinded were later found to be causing or contributing to an increment violation, additional control might be necessary as determined by the Technical Secretary.

(vi) If the Technical Secretary rescinds a permit under this paragraph, the public shall be given adequate notice of the rescission. Publication of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

(b) **Definitions.** As used in this paragraph, all terms not defined herein shall have the meaning given them in Chapter 1200-3-2.

1. **"Major stationary source"** means:

(i) Any of the following stationary sources, which emit or have the potential to emit, 100 tons per year or more of any air pollutant regulated under this Division 1200-3.

(I) Fossil-fuel fired steam electric plants of more than 250 million BTU per hour heat input.

(II) Municipal incinerators capable of charging more than 250 tons of refuse per day.

(III) Fossil-fuel boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input.

(IV) Petroleum storage and transfer facilities with a total storage capacity exceeding 300,000 barrels.

(V) Coal cleaning plants (with thermal dryers)

(VI) Kraft pulp mills

(VII) Portland cement plants

(VIII) Primary zinc smelters

(IX) Iron and steel mill plants

(X) Primary aluminum ore reduction plants

(XI) Primary copper smelters

(XII) Hydrofluoric acid plants

(XIII) Sulfuric acid plants

(XIV) Nitric acid plants
(XV) Petroleum refineries

(XVI) Lime plants

(XVII) Phosphate rock processing plants

(XVIII) Coke oven batteries

(XIX) Sulfur recovery plants

(XX) Carbon black plants (furnace process)

(XXI) Primary lead smelters

(XXII) Fuel conversion plants

(XXIII) Sintering plants

(XXIV) Secondary metal production plants

(XXV) Chemical process plants

(XXVI) Taconite ore processing plants

(XXVII) Glass fiber processing plants

(XXVIII) Charcoal production plants

(ii) Notwithstanding the stationary source size specified in subparagraph (b)1.(i) of this paragraph, any stationary source which emits or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Division 1200-3.

(iii) Any physical change that would occur at a stationary source not otherwise qualifying under paragraph (b)1. as a major stationary source if the change would constitute a major stationary source by itself.

2. **"Major modification"** means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under this Division 1200-3.

(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 regulation 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 legally enforceable permit which was established after January 6, 1975, or under regulations of this Division 1200-3.

(VII) Any change in ownership at a stationary source.

3. **Major sources and modifications for ozone**

(i) A source that is major for volatile organic compounds shall be considered major for ozone.

(ii) Any net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone.

4. **Net emission increases**

(i) **"Net emissions increase"** means the amount by which the sum of the following exceeds zero:

(I) Any increase in actual emissions from particular physical change or change in the method of operation at a stationary source; and

(II) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(I) The date five years before a completed application for the particular change is submitted and

(II) The date that the increase from the particular change occurs.

(iii) An increase or decrease in actual emissions is creditable only if the Technical Secretary has not relied on it in issuing a permit for the source under regulations

approved pursuant to this rule, which permit is in effect when the increase in actual emissions from the particular change occurs.

(iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable incremental increases remaining available.

(v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(vi) A decrease in actual emissions is creditable only to the extent that:

(I) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(II) It is legally enforceable at and after the time that actual construction on the particular change begins; and

(III) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period as determined by the Technical Secretary, not to exceed 180 days.

5. **"Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

6. **"Stationary source"** means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under this Division 1200-3 except the activities of any vessel.

7. **"Building, structure, facility, or installation"** means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant- emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., described by the first two digits in the code which is specified in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively)).

8. **"Emissions unit"** means any part of a stationary source which emits or would have the

potential to emit any pollutant subject to regulation under this Division 1200-3.

9. **"Construction"** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

10. **"Commence"** as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

    (i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within the time frame as allowed in part 1200-3-9-.01(4)(a)4.

    (ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within the time frame as allowed in part 1200-3-9-.01-(4)(a)4.

11. **"Necessary preconstruction approvals or permits"** means all permits or approvals required under air quality control laws and regulations.

12. **"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

13. **"Pollutant"** means those air contaminants which fall under the categories of criteria and non-criteria pollutants. Criteria pollutants are those for which an ambient air quality standard has been established. The non-criteria pollutants are air contaminants that are not criteria pollutants.

14. **"Baseline area"** means any intrastate area (and every part thereof) not designated as a nonattainment area in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 ug/m^3 (annual average) of the pollutant for which the minor source baseline date is established.

    (i) Area redesignations under this Division 1200-3 cannot intersect or be smaller than the area of impact of any major stationary source or major modification which establishes a minor source baseline date or is subject to the regulations in this paragraph.

15. **"Baseline date"**:

    (i) **"Major source baseline date"** means in the case of particulate matter and sulfur dioxide, January 6, 1975, and in the case of nitrogen dioxide, February 8, 1988.

    (ii) **"Minor source baseline date"** means the earliest date after the trigger date on

which a major stationary source or a major modification submits a complete application to the Technical Secretary or to the EPA administrator. The trigger date is:

(I) In the case of particulate matter and sulfur dioxide, August 7, 1977, and

(II) In the case of nitrogen dioxide, February 8, 1988.

(iii) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(I) The area in which the proposed source or modification would construct is not designated as a nonattainment area for the pollutant on the date of its complete application.

(II) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

16. **"Baseline concentration"** means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (b)(14)(iii); and

(ii) The allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(iii) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increment increase(s):

(I) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(II) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

17. **"Allowable emissions"** means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to legally enforceable limits which restrict the operating rate, or hours of operation,or both) and the most stringent of the following:

(i) The applicable standards under this Division 1200-3 or in the State Implementation Plan, including those with a future compliance date; or

(ii) The emissions rate specified as a legally enforceable permit condition established pursuant to this rule 1200-3-9-.01, including those with a future compliance date.

18. **"Legally enforceable"** means all limitations and conditions which are enforceable by the Technical Secretary and the EPA administrator, including those under this Division 1200-3 and the State Implementation Plan, and any permit requirements established pursuant to this Rule 1200-3-9-.01.

19. **"Secondary emissions"** means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

20. **"Innovative control technology"** means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

21. **"Fugitive emissions"** means those which could not reasonably pass through a stack, chimney, vent, roof monitor, or other functionally equivalent opening.

22. **"Actual emissions"** means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with subparts (i) through (iii) below.

    (i) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Technical Secretary may allow the use of a different time period upon a determination that is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

    (ii) The Technical Secretary may presume that source- specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

    (iii) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on the date.

23. **"Complete"** means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Technical Secretary from requesting or accepting any additional information.

24. **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) Pollutant and Emissions Rates

(I) Carbon Monoxide: 100 tons per year (tpy)

(II) Nitrogen oxides: 40 tpy

(III) Sulfur dioxide: 40 tpy

(IV) Particulate matter: 25 tpy

(V) Ozone: 40 tpy of volatile organic compounds or nitrogen oxides.

(VI) Lead (elemental): 0.6 tpy

(VII) Fluorides (excluding HF): 3 tpy

(VIII) Sulfuric acid mist: 7 tpy

(IX) Total reduced sulfur (including H_2S): 10 tpy

(X) Reduced sulfur compounds (including H_2S): 10 tpy

(XI) Municipal waste combustor organics (measured as total tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans): 3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy).

(XII) Municipal waste combustor metals (measured as particulate matter): 15 tpy

(XIII) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy)

(XIV) Ozone depleting substances (listed under Section 602 of the federal Clean Air Act): 40 tpy

(ii) **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulations of EPA under the Clean Air Act and that subparagraph (b)24.(i) does not list, any emissions rate.

(iii) Notwithstanding subparagraph (b)-24.(i), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than 1 ug/m 3 (24-hour average).

25. **"Federal Land Manager"** means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

26. **"High terrain"** means any area having an elevation 900 feet or more above the base of the stack of the source.

27. **"Low terrain"** means any area other than high terrain.

28. **"Adverse impact on visibility"** means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitors visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with the times of visitor use of the Federal Class I area, and with the frequency and timing of natural conditions that reduce visibility.

29. **"Volatile organic compounds (VOC)"** means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

(i) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (HCFC-22); trifluoromethane (HFC-23); dichlorotetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); dichlorotrifluoroethane (HCFC-123); tetrafluoroethane (HFC-134a); dichlorofluoroethane (HCFC-141b); chlorodifluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride (PCBTF); cyclic, branched, or linear completely methylated siloxanes (VMS); acetone; perchloroethylene (tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb), 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC43-10mee); and perfluorocarbon compounds which fall into these classes.

(I) Cyclic, branched, or linear, completely fluorinated alkanes;

(II) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(III) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(IV) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(ii) For purposes of determining compliance with emissions limits, VOC will be measured by the test methods in the approved State implementation plan (SIP) or 40 CFR part 60, Appendix A, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Technical Secretary.

(iii) As a precondition to excluding these compounds as VOC or at any time thereafter, the Technical Secretary may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of

the Technical Secretary, the amount of negligibly-reactive compounds in the source's emissions.

(iv) For purposes of enforcement for a specific source, the test methods specified in these regulations, in the approved SIP, or in a permit issued pursuant to these regulations shall be used.

30. **"Dispersion technique"** shall have the meaning as provided in Chapter 1200-3-24.

31. **"Good engineering practice"** (GEP) shall have the meaning as provided in Chapter 1200-3-24.

32. **"Welfare"** all language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants.

(c) Major stationary sources, and major modifications of sources are subject to the provisions of this paragraph.

(d) Major stationary sources and major modifications are exempt from certain provisions of this paragraph in accordance with the following:

1. Major stationary sources or major modifications as defined in this paragraph shall not be subject to the requirements of this paragraph (except as provided in part (4)(a)7. of this paragraph) if:

(i) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any of the categories listed under subparagraph (b)1.(i), or any other stationary source category which, as of June 26, 1993, is being regulated under Chapter 1200-3-11 or Chapter 1200-3-16.

(ii) The source or modification was subject to the new construction rules and regulations as in effect before June 3, 1981, and the owner or operator:

(a) Obtained all Federal, State, and local preconstruction approvals or permits necessary before June 3, 1981.

(b) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-3-9-.01(4)(a)4.

(iii) The source or modification is subject to the prevention of significant deterioration rules and regulations as in effect before June 3, 1981, and the owner or operator:

(a) Submitted a completed application before June 3, 1981.

(b) Commenced construction within 18 months of receipt of all necessary Federal, State, and local preconstruction approvals or permits; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within the time frame as allowed in part 1200-3-9-.01(4)(a)4.

3. No major stationary source or major modification as defined in this paragraph shall be subject to the requirements of this paragraph with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment as defined in Rule 1200-3-2-.01.

4. Source impact and air quality analysis as required in parts (e)1., (e)3., and (e)7. of this paragraph shall not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary, and impact no Class I area and no area where an applicable increment is known to be violated.

5. Source impact and air quality analysis as required in parts (e)1., (e)3., and (e)7. of this paragraph as they relate to any maximum allowable increase for a Class II area do not apply to a major modification of a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant from the modification after the applications of best available control technology would be less than 50 tons per year.

6. Air quality analysis as required in this paragraph may be exempted with respect to preconstruction monitoring for a particular pollutant by the Technical Secretary if:

(i) The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(I) Carbon monoxide - 575 ug/m^3, 8-hour average;

(II) Nitrogen dioxide - 14 ug/m^3, annual average;

(III) Total suspended particulates - 10 ug/m^3, 24- hour average;

(IV) Sulfur dioxide - 13 ug/m^3, 24-hour average;

(V) Ozone - no de minimis air quality level has been established.

(VI) Lead (elemental) - 0.1 ug/m^3, 3-month average;

(VII) Fluorides (excluding HF) - 0.25ug/m^3, 24-hour average;

(VIII) Total reduced sulfur - 10ug/m^3, 1-hour average;

(IX) Reduced sulfur compounds - 10 ug/m^3, l-hr. average; or:

(ii) The pollutants are not listed in subparagraph (d)6.(i);or

(iii) Representative existing ambient air quality data consistent with the requirements of Ambient Monitoring Guideline for Prevention of Significant Deterioration (PSD), EPA-450/4-87-007, are available for any pollutant as emitted by a major stationary source, or major modification; or

(iv) The existing air pollutant levels are conservatively estimated to be less than the concentrations listed in subpart (i) of this part, and a monitoring network may not reliably measure the predicted background concentrations.

7. A portable stationary source which has previously received construction approval under the requirements of this paragraph may relocate if:

(i) Emissions from the source would be temporary and would not exceed its allowable emissions; and

(ii) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

(iii) Notice shall be given to the Technical Secretary 30 days prior to the relocation, giving the new temporary location and the probable length of operation at the new location.

8. Exclusions from Increment Consumption

(i) Maximum allowable increases (ambient air increments) as specified in subparagraph 1200-3-9-.01(4)(f) shall not apply to concentrations as described below.

(I) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such an order;

(II) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to an applicable Federal law over the emissions from such sources before the effective date of such plan;

(III) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emissions-related activities of new or modified sources;

(IV) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by plan revisions approved as meeting the criteria specified in subpart 7.(iii).

(ii) No exclusion of such concentrations shall apply more than five years after the effective date of the order to which item 7.(i)(I) refers or the plan to which item 7.(i)(II) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five years after the later of such effective dates.

(iii) For purposes of excluding concentrations pursuant to item 7.(i)(IV), the proposed plan revision shall:

(I) Specify the time over which the temporary emissions increase of sulfur dioxide or particulate matter would occur. Such time is not to exceed two years in duration.

(II) Specify that the time period for excluding certain contributions in accordance with item 7.(iii)(I) is not renewable.

(III) Allow no emission increase from a stationary source which would:

I. Impact a Class I area or an area where an applicable increment is known to be violated; or

II. Cause or contribute to the violation of a national ambient air quality standard;

(IV) Require limitations to be in effect at the end of the time period specified in accordance with item 7.(iii)(I) which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

(e) The owner or operator of the proposed major stationary source or major modification:

1. Shall demonstrate by performing source impact analysis that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reduction (including secondary emissions) would not cause or contribute to air pollution in violation of:

(i) Any Tennessee ambient air quality standard in the source impact area.

(ii) Any applicable maximum allowable increase over the baseline concentration in any area.

2. Shall submit all data necessary to make the analyses and determinations required under this paragraph.

(i) The data shall include:

(I) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings needed for the review showing its design and plant layout.

(II) A detailed proposed schedule for construction of the source or modification.

(III) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates and any other information necessary to determine that best available control technology would be applied where required by this paragraph.

(IV) Additional impact analysis

I. The impairment of visibility, soils, and vegetation that would occur as a result of the source or modification and the associated general commercial, residential, industrial, and other growth. Vegetation having no significant commercial or recreational value may be excluded from the analysis.

II. The air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification.

(ii) Upon request by the Technical Secretary, the owner or operator shall also provide information on:

(I) The air quality impact of the source or modification, including meteorological and topographical data.

(II) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since the PSD baseline in the area the source or modification would affect. Such data in the possession of the Division shall be made available to the owner or operator.

3. Shall, after construction of the stationary source or modification, conduct such post-construction monitoring as the Technical Secretary determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

4. Shall meet the quality assurance requirements as specified in the Code of Federal Regulations, Title 40, Part 58, Appendix B, as published July 1, 1991, during the operation of monitoring stations for purposes of satisfying parts (e)3. and (e)7. of this paragraph.

5. Shall insure that the stationary source or the major modification be in compliance with all applicable emission limitations of this Division 1200-3.

6. Shall pay the cost of all publications required under this paragraph.

7. Shall perform the preapplication air quality analysis as outlined below:

(i) Any application for a construction permit pursuant to the regulations of this paragraph shall contain an analysis of ambient air quality as required by the Technical Secretary in the area that the major stationary source or major modification would affect for each of the following pollutants:

(a) For the source, each pollutant that it would have the potential to emit in a significant amount;

(b) For the modification, each pollutant for which it would result in a significant net emissions increase.

(ii) For a pollutant for which an ambient air quality standard exists in these regulations (other than non-methane hydrocarbons), the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase unless specifically exempted in subparagraph 1200-3-9-.01(4)(d).

(iii) In general, the continuous air monitoring data that is required shall have been gathered over a period of one year and shall represent the year preceding receipt of the application, except that, the Technical Secretary determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have gathered over at least that shorter period.

(iv) (Reserved)

(v) With respect to any pollutant for which no Tennessee Ambient Air Quality Standard exists, the analysis shall contain such air quality monitoring data as is determined by the Technical Secretary and EPA to be necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.

(f) **Ambient Air Increments**. In areas designated as class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

	Maximum Allowable Increase (Micrograms per cubic meter)
Pollutant	**Class I** **ug/m^3**
PM_{10}:	
PM_{10} Annual arithmetic mean	4
PM_{10} 24-hour maximum.	8
Sulfur dioxide:	
Annual arithmetic mean.	2

24-hour maximum.	5
3-hour maximum	25

Nitrogen Dioxide:

Annual arithmetic mean.	2.5

Class II

PM_{10}:

PM_{10} Annual arithmetic mean	17
PM_{10} 24-hour maximum.	30

Sulfur dioxide:

Annual arithmetic [mean]	20
24-hour maximum	91
3-hour maximum	512

Nitrogen Dioxide:

Annual arithmetic mean	25

Class III

PM_{10}:

PM_{10} Annual geometric mean.	34
PM_{10} 24-hour maximum.	60

Sulfur dioxide:

Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700

Nitrogen Dioxide:

Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

(g) **Area classifications** - For the purpose of this paragraph, the following classifications shall apply:

1. Class I Areas - Great Smoky Mountains National Park, Joyce Kilmer Slickrock National Wilderness Area, and the Cohutta Wilderness Area.

2. Class III Areas - None

3. Class II Areas - Remainder of the state

Areas in surrounding states are classified as specified in the EPA approved implementation plan for each adjoining state.

(h) **Restrictions on area classifications**

1. All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

   (i) International parks,

   (ii) National wilderness areas which exceed 5,000 acres in size.

   (iii) National memorial parks which exceed 5,000 acres in size and

   (iv) National parks which exceed 6,000 acres in size.

2. Areas which were redesignated as Class I before August 7, 1977, shall remain Class I, but may be redesignated as provided in this section.

3. Any other area, unless otherwise specified in the legislation creating such as area, initially designated Class II, but may be redesignated as provided in this section.

4. The following areas may be redesignated only as Class I or II:

   (i) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

   (ii) A national or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

5. In redesignation, the procedures specified in 40 CFR 51.166(g) as of July 1, 1992, shall be applied.

(i) **Ambient air ceilings.**

1. No concentration of a pollutant shall exceed the concentration permitted under the Tennessee secondary ambient air quality standard (Chapter 1200-3-3, Table l), or the concentration permitted under the Tennessee primary ambient air quality standard (Chapter 1200-3-3, Table l), whichever concentration is lowest for the pollutant for a period of exposure.

2. Except as permitted by Section 123 of the Clean Air Act Amendments of 1977, dispersion techniques which exceed good engineering practice, and which were implemented after December 31, 1970, will not be considered when determining the emission limitations required for control of any pollutant.

(j) **Control Technology Review.**

1. A major stationary source or major modification shall meet each applicable emissions limitation under this Division 1200-3 and the State Implementation Plan.

2. A new major stationary source shall apply best available control technology for any pollutant that it would have the potential to emit in significant amounts.

3. A major modification shall apply best available control technology for any pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

4. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

(k) **Air Quality Models.**

All estimates of ambient concentrations required under this paragraph shall be based on the applicable air quality models and data bases, and other requirements specified in the "Guideline on Air Quality Models (Revised)" (1986) and Supplement A (1987) which are incorporated by reference. Where an air quality impact model specified in the "Guideline on Air Quality Models (Revised)" (1986) and Supplement A (1987) are inappropriate, the model may be modified or another model substituted by the Technical Secretary after consultation with the EPA Administrator. The use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with subparagraph (l) of this paragraph.

(l) **Public Participation.**

1. Within 30 days after receipt of an application to construct, or any addition to such application, the Technical Secretary shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the Technical Secretary received all required information.

2. The Technical Secretary shall make a final determination on the application no later than 6 months after receipt of a complete application. If there is a need for a longer period of time for review, it shall be agreed upon by mutual consent. In no case may this review period be longer than l year. The review process involves performing the following actions:

   (i) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

   (ii) Make available in at least one location in each air quality control region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

   (iii) 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 application, the preliminary determination, the degree of

increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.

(iv) Send a copy of the notice of public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: State or local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, the EPA Administrator, and any State or Federal Land Manager whose lands may be significantly (1 ug/m3, 24 hour average) affected by emissions from the source or modification.

(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to it, the control technology required, and other appropriate considerations.

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public or request an extension for this purpose. The Technical Secretary shall make all comments available for public inspection in the same locations where the Technical Secretary make available preconstruction information relating to the proposed source or modification.

(vii) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this paragraph.

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Technical Secretary made available preconstruction information and public comments relating to the source or modification.

(ix) All public comments and written comments prepared by the Technical Secretary will be maintained in the public depositories for one year from the date of issuance of the final determination.

(m) **Violations of Ambient Air Quality Increments or Standards**

The Technical Secretary shall not issue a construction permit to a source or facility to construct in an area where the increment is known to be violated or the air quality review predicts a violation of the increment or the ambient air quality standards except in accordance with the following:

1. All new or modified facilities shall utilize good engineering practice as determined by the Technical Secretary in designing stacks. In no event shall that part of a stack which exceeds good engineering practice stack height be taken into account for the purpose of determining the degree of emission limitation required for the control of any pollutant for which there is an ambient air quality standard established in Chapter 1200-3-3, Table l.

2. A major source or modification which would normally be required to meet BACT shall be

required to meet the Lowest Achievable Emission Rate (LAER) for that type of source as determined at the time of the permit application. The term "lowest achievable emission rate" shall be defined as found in paragraph 1200-3-9-.01(5) of this rule.

3. If necessary, the source shall obtain emission offsets, legally enforceable at or before the time of PSD permit issuance, sufficient to predict that the increment or air quality standard will no longer be violated. The offsets shall be accomplished on or before the time of the new source operation and demonstrated through a source test or through another method acceptable to the Technical Secretary.

4. A major stationary source or major modification will be considered to cause or contribute to a violation of an ambient air quality standard when such source or modification would, at a minimum, exceed the following significance levels at any locality that does not or would not meet the applicable ambient air quality standard:

Pollutant	Annual	24 hour	8 hour	3 hour	1 hour
PM_{10}	1	5			
Sulfur Dioxide	1	5		25	
Carbon Monoxide			500		2000
Nitrogen Dioxide	1				

(Levels are in units of micrograms per cubic meter.)

5. This rule does not exempt the source from meeting the requirements of rule 1200-3-9-.01-(5).

(n) **Sources Impacting Class I Areas - Additional Requirements**

1. Notice to Federal Land Managers and the EPA Administrator

The Technical Secretary shall promptly provide notice of receipt of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area to the EPA Administrator, the Federal Land Manager, and the Federal official charged with direct responsibility for management of any lands within any such area. The Technical Secretary shall transmit to the EPA Administrator a copy of each permit application relating to a major stationary source or major modification which would affect a Class I area. The Technical Secretary shall also provide the EPA Administrator, the Federal Land Manager and such Federal officials with a copy of the preliminary determination and shall make available to them any materials used in making that determination promptly after the Technical Secretary makes it. In addition, notification of public hearings, final determinations, and permits issued shall be provided.

2. Denial - Impact on Air Related Values

The Federal Land Manager of any such lands may demonstrate to the Technical Secretary that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Technical Secretary concurs with such demonstration, then he shall not issue the permit.

3. Class I Variances

The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Technical Secretary, provided that the applicable requirements of this paragraph are otherwise met, may issue the permit with such emission limitations as may be necessary as approved by the Tennessee Air Pollution Control Board to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over baseline concentration for such pollutants:

Pollutant	Maximum allowable increase ug/m^3
PM_{10}:	
PM_{10}, Annual arithmetic mean	17
PM_{10}, 24 hr. maximum.	30
Sulfur dioxide	
Annual arithmetic mean	20
24-hr. maximum	91
3-hr. maximum	325
Nitrogen dioxide:	
Annual arithmetic mean.	25

(o) **Innovative Control Technology**

1. The owner or operator of a proposed major stationary source or major modification may request that the Technical Secretary approve a system of innovative control technology.

2. The Technical Secretary, with the consent of the Governor(s) of the other affected State(s), may determine that the source or modification may employ a system of innovative control technology if:

(i) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(ii) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under part 1200-3-9- .01(4)(j)1. by a date specified by the Technical Secretary. Such date shall not be later than 4 years from the time of startup, or 7 years from permit issuance.

(iii) The source or modification would meet the requirements of parts (e)-1. and (j)-1. based on the emission rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Technical Secretary.

(iv) The source or modification shall not:

(I) Cause or contribute to a violation of an applicable ambient air quality standard; or

(II) Have an adverse impact on any Class I area; or

(III) Impact any area where an applicable increment is known to be violated; and

(v) All other applicable requirements including those for public participation have been met.

3. The Technical Secretary shall withdraw any approval to employ a system of innovative control technology made under this subparagraph, if:

(i) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or

(ii) The proposed system fails before the specified date so as to contribute to ambient air quality violations, or to an unreasonable risk to public health, welfare, or safety; or

(iii) The Technical Secretary decides at any time that the proposed system is unlikely to achieve the required level of control, or to protect the public health, welfare of safety.

4. If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with part (o)3., the Technical Secretary may allow the source or modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

1200-3-9-.01(5) Growth Policy

(a) Attainment and Unclassified Areas

The Technical Secretary shall not grant a permit for the construction or modification of any air contaminant source in an attainment or unclassified area if such construction or modification will interfere with the maintenance of an air quality standard or PSD increment where applicable, or will violate any provisions of the Tennessee Air Quality Act, or section 165 (a)(3) of the Clean Air Act, Amendments of 1990.

(b) Nonattainment Areas

1. Definitions as used in this subparagraph are not alphabetized. All terms not defined herein shall have the meaning given them in Chapter 1200-3-2.

(i) **"Stationary source"** means any building, structure, facility, or installation which emits or may emit any air contaminant subject to regulation under this Division 1200-3.

(ii) **"Building, structure, facility, or installation"** means all of the air contaminant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Air contaminant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two digit code) which is specified in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively)).

(iii) **"Potential to emit"** means the maximum capacity of a stationary source to emit an air contaminant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air contaminant, including air contaminant control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is "legally enforceable." Secondary emissions do not count in determining the "potential to emit" of a stationary source.

(iv) **"Major stationary source"** means:

(I) Any stationary source of air contaminants which emits, or has the potential to emit, 100 tons per year or more of any air contaminants regulated under this Division 1200-3, or

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

(III) A major stationary source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone.

(IV) The fugitive emissions of a stationary source shall not be included in

determining for any of the purposes of this Item, whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

I Coal cleaning plants (with thermal dryers);

II Kraft pulp mills;

III Portland cement plants;

IV Primary zinc smelters;

V Iron and steel mills;

VI Primary aluminum ore reduction plants;

VII Primary copper smelters;

VIII Municipal incinerators (or combination thereof) capable of charging more than 50 tons of refuse per day;

IX Hydrofluoric, sulfuric, or nitric acid plants;

X Petroleum refineries;

XI Lime plants;

XII Phosphate rock processing plants;

XIII Coke oven batteries;

XIV Sulfur recovery plants;

XV Carbon black plants (furnace process);

XVI Primary lead smelters;

XVII Fuel conversion plants;

XIII Sintering plants;

XIX Secondary metal production plants;

XX Chemical process plants;

XXI Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

XXII Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

XXIII Taconite ore processing plants;

XXIV Glass fiber processing plants;
XXV Charcoal production plants;

XXVI Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and

XXVII Any other stationary source category which, as of August 7, 1980, is being regulated under Chapter 1200-3-16, New Source Performance Standards or Chapter 1200-3-11, Hazardous Air Contaminants or Chapter 1200-3-31,Standards For Hazardous Air Contaminants For Source Categories.

(v) **Major modification:**

(I) **"Major modification"** means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase for any pollutant subject to regulations under Subpart 1200-3-9-.01(5)(b)1.(x).

(II) Any net emissions increase that is considered significant for volatile organic compounds or nitrogen oxides shall be considered significant for ozone.

(III) A physical change or change in the method of operation shall not include:

I Routine maintenance, repair, and 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 the federal power act;

III Use of an alternative fuel by reason of an order or Rule under Section 125 of the Clean Air Act Amendments, August 7, 1977;

IV Use of an alternative fuel at a steam generating unit (burning equipment of 250 million BTU's per hour or larger) 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 December 12, 1976, unless such change would be prohibited under a legally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR Part 52.21 (July 1, 1993), or under regulations approved pursuant to 40 CFR Part 51 Subpart I or 51.166 (July 1, 1993), or the

source is approved to use under any permit issued pursuant to this paragraph;

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 December 21, 1976, pursuant to 40 CFR Part 52.21 (July 1, 1993) or regulations approved pursuant to 40 CFR Part 51 Subpart I or 40 CFR Part 51.166 (July 1, 1993).

VII Any change in ownership at a stationary source.

(vi) **Net emission increases**

(I) **"Net emissions increase"** means the amount by which the sum of the following exceeds zero:

I Any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

II Any other increases and decreases in actual emissions at the stationary source that are contemporaneous with the particular change and are otherwise creditable.

(II) An increase or decrease in the actual emissions is contemporaneous with the increase from the particular change only if it occurs before the date that the increase from the particular change occurs.

(III) An increase or decrease in actual emissions is creditable only if;

I It occurs within a 5 year period or shorter time as specified by the Technical Secretary; and

II The Technical Secretary has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR Part 51 Subpart I.(July 1, 1993) when the increase in actual emissions from the particular change occurs.

(IV) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(V) A decrease in actual emissions is creditable only to the extent that:

I The old level of actual emission or the old level of allowable emissions which ever is the lower, exceeds the new level of actual emissions; and

II It is legally enforceable at and after the time that actual construction on the particular change begins; and

III The Technical Secretary has not relied on it in issuing any

permit under regulation approved pursuant to 40 CFR Part 51 Subpart I (July 1, 1993) or the Technical Secretary has not relied on it in demonstrating attainment or reasonable further progress; and

IV It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(VI) An increase that results from a physical change at a stationary source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular air contaminant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period as determined by the Technical Secretary, not to exceed 180 days.

(vii) **"Emissions unit"** means any part of a stationary source which emits or would have the potential to emit any air contaminant subject to regulation under this Division 1200-3.

(viii) **"Secondary emissions"** means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purposes of this rule, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include, emissions from any off-site support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major stationary source of major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(ix) **"Fugitive emissions"** means those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

(x) **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit any of the following air contaminants, a rate of emissions that would equal or exceed any of the following rates:

(I) Air Contaminant and Emissions Rate

I Carbon monoxide: 100 tons per year (tpy)

II Nitrogen Oxides: 40 tpy

III Sulfur dioxide: 40 tpy

IV Ozone: 40 tpy of an ozone precursor

V Lead: 0.6 tpy

VI PM_{10}: 15 tpy

(xi) **"Allowable emissions"** means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to legally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(I) The applicable standards set forth in:

I The New Source Performance Standards (NSPS) or;

II The National Emission Standards for Hazardous Air Pollutants (NESHAP) contained in Chapter 1200-3-11 and Chapter 1200-3-31 or;

III Limits established pursuant to the applicable standards under Division 1200-3 or;

IV In the State Implementation Plan, emissions rates, specified as a legally enforceable permit condition established pursuant to this rule 1200-3-9-.01 including those with a future compliance date

(xii) **"Legally enforceable"** means all limitations and conditions which are enforceable by the Technical Secretary and the EPA Administrator and are included under this Division 1200-3 and the State Implementation Plan. All orders issued by the Tennessee Air Pollution Control Board, operating permits and their respective special conditions issued in accordance with the Act and Regulations, and any certificate authorized by the Act or the Regulations shall be taken to public hearing and made part of the State Implementation Plan by the Board to be legally enforceable.

(xiii) **"Actual emissions"** means the actual rate of emissions of an air contaminant from an emissions unit, as determined in accordance with items (I) through (III) below.

(I) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the air contaminant during a two-year period which precedes the particular date and which is representative of normal source operation. The Technical Secretary may allow the use of a different time period upon a determination that is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(II) In the absence of reliable data, the Technical Secretary may presume that permitted-specific allowable emissions for the emissions unit are equivalent to the actual emissions of the emissions unit.

(III) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(xiv) **"Construction"** means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(xv) **"Commence Construction"**
"Commence construction" as applied to a major stationary source or major modification means that the owner or operator has all necessary construction permits and either has begun, or caused to begin, a continuous program of actual on-site construction of the stationary source, to be completed within a reasonable time; or entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the stationary source to be completed within a reasonable time.

(xvi) **"Necessary Preconstruction permits"** means those permits required under the air quality control laws and regulations which are part of the approved SIP under Division 1200-3.

(xvii) **"Begin actual construction"** means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipe work, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(xviii) **"Lowest achievable emission rate"** (LAER) means, for any major stationary source or major modifications, the more stringent rate of emissions based on the following:

(I) The most stringent emissions limitation which is contained in the applicable standards under this Division 1200-3, or in any State Implementation Plan for such class or category of stationary source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or

(II) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any air contaminant in excess of the amount allowable under applicable New Source Standards of Performance.

(xix) **"Significantly impact"** means the contribution by a new stationary source or modification to the air quality in a nonattainment area in concentrations equal to or greater than the amount as follows:

AVERAGING TIME AND APPLICABLE CONCENTRATION

Pollutant	Annual	24-Hour	3 Hour	8 Hour	1 Hour
Sulfur Dioxide	1 $\mu g/m^3$	5 $\mu g/m^3$	25 $\mu g/m^3$		
PM_{10}	1 $\mu g/m^3$	5 $\mu g/m^3$			
Carbon Monoxide				500 $\mu g/m^3$	2000 $\mu g/m^3$
Nitrogen Oxide	1 $\mu g/m^3$				

(xx) **"Minor stationary source"** means any source which is not a major stationary source

(xxi) **"Minor modification"** means

(I) Any modification which is not a major modification; or

(II) Any modification which is a physical change in or a change in the method of operation of a minor stationary source provided the change would not constitute a major stationary source by itself.

(xxii) **"Reasonable stack heights"** means a stack height which will minimize air quality impact, not to exceed the Tennessee ambient air quality standards in any case. The Technical Secretary shall on a case-by-case basis, taking into account the existing air quality in the area and the economic costs to the stationary source, determine the achievable stack height to be used by the stationary source or modification. In no circumstance shall the stack height be less than 20 feet above ground level, or be required to exceed stack height procedure. Stacks not emitting the nonattainment pollutants are not required to meet the minimum stack height requirement. Stationary sources which emit volatile organic compounds and nitrogen oxide and are located in ozone nonattainment areas will not be required to meet the minimum stack height requirement.

(xxiii) **"Reasonable Further Progress"** (RFP) means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Technical Secretary or the EPA Administrator for the purpose of ensuring attainment of the applicable ambient air quality standard by the applicable date.

(xxiv) **"Reasonable available control technology"** (RACT) means devices, systems, process modifications, or other apparatus or techniques that are reasonably available taking into account:

(I) The necessity of imposing such controls in order to attain and maintain an ambient air quality standard,

(II) The social, environmental and economic impact of such controls, and

(III) Alternative means of providing for attainment and maintenance of such standard.

(xxv) **"Compliance schedule"** means a chronology of actions to be taken by a noncomplying source to bring it into full compliance with Division 1200-3 or permits issued thereto. Generally speaking, compliance schedule increments will be divided into (1) engineering evaluation for problem solution, (2) procurement of the equipment and/or services necessary to solve the problem, (3) on-site delivery of the equipment, (4) completion of the equipment's installation including startup of said equipment and (5) source testing to establish the air contaminant emission levels of the completed installation if required by the Technical Secretary.

(xxvi) **"Air contaminant"** is particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combinations thereof, total suspended particulates, PM_{10}, sulfur dioxide, carbon monoxide, ozone, nitrogen oxides, lead, and gaseous fluorides expressed as HF.

(xxvii) **"Good Engineering Practice"** (GEP)

(GEP) Stack height means the greater of:

(I) 65 meters, measured from the ground-level elevation at the base of the stack or,

(II) I For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR part 51 and 52 (July 1, 1993)

$Hg = 2.5 H,$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

II For all other stacks,

$Hg = H + 1.5L$

where

Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack. This is the height at which structural downwash no longer influences computer modeled ambient impacts.

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack.

L = lesser dimension, height or projected width, of nearby structure(s)

provided that the Technical Secretary may require the use of a field study or fluid model to verify GEP stack height for the source; or

(III) The height demonstrated by a fluid model or a field study approved by the Technical Secretary, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(xxviii) **"Nonattainment Area"** means any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) any ambient air quality standard for the pollutant. As used in this chapter "nonattainment area" includes all the areas as defined by 1200-3-2-.01(1)(ffff) plus any areas determined as not meeting any ambient air quality standards as a result of required monitoring as part of a construction permit application. The demonstration required under section 165(a)(3) of the 1990 Clean Air Act, shall not apply to maximum allowable increases for Class II areas in the case of an expansion or modification of a major emitting facility which was in existence on the date of enactment of the Clean Air Act, Amendments of 1977, and whose allowable emissions of air pollutants is established as required in sub section 165(a)(4) of the 1990 Clean Air Act.

(xxix) (Reserved)

(xxx) **"Volatile Organic Compounds" and "exempt compounds"** have the same meaning as defined in Division 1200-3-18-.01 Definitions.

(xxxi) **"Ambient Air Quality Standard"** (AAQS) means any Primary Ambient Air Quality Standard or Secondary Ambient Air Quality Standard or Tennessee Ambient Air Quality Standard as defined in Chapter 1200-3-3.

(xxxii) **"Class I, Class II, or Class III"** areas means areas of the state as defined by Division 1200-3-9-.01(4)(g).

(xxxiii) **"Ozone precursor"** means volatile organic compounds and/or nitrogen oxides. A proposed new source or a net emissions increase at an existing source in an ozone transport region (or an ozone nonattainment area) can be classified as major based on either VOC or NO_X emissions or both (but not in combination). That is, the determination of major must be made individually for each pollutant, since VOC and NO_X emissions cannot be added to meet the minimum level required for such a demonstration.

(I) Notwithstanding sub-part (xxxiii) of this part, NO_X shall not be considered an ozone precursor when:

I Additional NO_X emissions reductions would not be expected to decrease ozone; and

II The Administrator of EPA determines, for certain classes or categories of sources (when the Administrator approves the

Tennessee State Implementation Plan or Plan revision), that net air quality benefits would be greater in the absence of further nitrogen oxides reductions from sources concerned.

(xxxiv) **"Stack height procedures"** means those procedures that must provide that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceed good engineering practice or by any other dispersion technique, except as provided in 40 CFR Part 51.118(b) (July 1, 1993). Such procedures must provide that before the Technical Secretary issues a permit to a source based on a good engineering practice stack height that exceeds the height allowed by 40 CFR Part 51.100(ii) (1) or (2)(July 1, 1993), the Technical Secretary must notify the public of the availability of the demonstration study and must provide opportunity for public hearing on it. This subpart does not require such procedures to restrict in any manner the actual stack height of any source.

(xxxv) **"Portable Stationary Source"** means any source that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be removed prior to the application of a lifting or pulling force for the purpose of transporting the unit, except that such connection as deemed appropriate by the Technical Secretary may be exempted for safety considerations from the specified restrictions on a qualifying source.

2. No major stationary source or major modification to which the requirements of this subparagraph apply shall begin actual construction without a permit which states that the stationary source or modifications will meet the requirements of this Paragraph.

The requirements of this subparagraph shall apply to any new stationary source or major modification that is major for a pollutant, or precursor to a pollutant as applicable, if the stationary source or modification would be constructed anywhere in an area designated nonattainment (as of the date of the permit issued in accordance with this subparagraph) for such pollutant pursuant to the Clean Air Act Title I Part A Section 107(d) (As amended November 15,1990).

The requirements of this subparagraph shall apply to each nonattainment pollutant (and in some cases each precursor to the nonattainment pollutant) that the source will emit, or will have the potential to emit, in major amounts. In the case of a modification, the requirements shall apply to the significant net emissions increase of each nonattainment pollutant (and each precursor to the nonattainment pollutant, as applicable) for which the source is major.

(i) All new stationary sources or modifications shall utilize "stack height procedures."

(ii) All minor stationary sources, and minor modifications proposing to construct in a nonattainment area shall utilize best available control technology (BACT) for the nonattainment pollutant as specified by the Technical Secretary at the time of the completed permit application, but all major stationary sources and major modifications are required to install LAER in nonattainment areas for the

nonattainment pollutant.

(iii) Major stationary sources or major modifications shall meet the following criteria:

(I) A major stationary source or major modification shall meet each applicable emissions limitation under the State Implementation Plan and each applicable requirement for sources subject to the New Source Performance Standards, and the National Emission Standards for Hazardous Air Pollutants.

(II) A new major stationary source shall apply the lowest achievable emission rate for each contaminant for which the area is designated nonattainment that it would have the potential to emit in an amount sufficient to make the source or modification a major stationary source or modification. This provision applies to each new emissions unit at which emissions would occur.

(III) A major modification shall apply the lowest achievable emission rate for each air contaminant for which the area is designated nonattainment and for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the air contaminant would occur as the result of a physical change or change in the method of operation in the unit.

(IV) For phased construction projects, the determination of lowest achievable emission rate shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of the lowest achievable emission rate.

(V) The Technical Secretary shall, for each new major source and major modification, submit to the RACT/BACT/LAER Clearinghouse within 60 days of issuance of the permit, all information on the emissions prevention or control technology for the new major source or major modification.

(iv) Reasonable Further Progress (RFP)

(I) Timing and exemptions:

I By the time that the proposed source or modification is to commence operation, sufficient offsetting emissions reductions shall be in effect such that the total emissions from existing sources in the area, from new or modified sources which are not major stationary sources, and from the proposed source will be sufficiently less than total emissions from existing sources prior to the application for such permit to construct or modify so as to represent (when considered together with the

plan provisions required under the Clean Air Act Title I Part D Subpart 1 Section 172 (as amended November 15,1990) reasonable further progress; or

II In the case of a new major stationary source or major modification which is located in a zone (within the nonattainment area) identified by the Administrator of EPA, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, the emissions of such air contaminant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted as contained in the State's approved Implementation Plan pursuant to the Clean Air Act Title I Part D Subpart 1 Section 172(c)(4) (as amended November 15,1990).

(II) For the purposes of satisfying the requirements of sub-item (iv)(I)I. of this sub-part, the determination of total emissions at both the time prior to the application for a permit subject to the requirements of this sub-part and the time such permitted source or modification would commence operation, shall be made by the Technical Secretary in a manner consistent with the assumptions in the applicable implementation plan approved by the Administrator of EPA concerning baseline emissions for the demonstration of reasonable further progress and attainment of the ambient air quality standards for the particular air contaminant subject to review under this sub-part.

(v) Emissions Offsets

(I) Prior to the issuance of a permit under this sub-part, legally enforceable emission offsets shall be obtained from the same source or other sources in the same non-attainment area, except that such emissions reduction may be obtained from a source in another non-attainment area if:

I. The other area has an equal or higher non-attainment classification than the area in which the source is located; and,

II. Emissions from such other area contribute to a violation of a air quality standard in the non-attainment area in which the proposed new or modified source would construct.

(II) By the time that the new or modified source commences operation, such reductions shall be in place such that the total tonnage of emissions of any applicable non-attainment air contaminant allowed from the proposed new source, or net emissions increase from the modification, shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air contaminant from the same or other sources.

(III) In meeting the requirements of item (v)(II) of the sub-part for ozone

non-attainment areas 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.

(IV) Within an ozone transport region, 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 1.5 to 1.

(V) I. Emissions reductions achieved by shutting down an existing source or curtailing production or operating hours below baseline levels may be generally credited if such reductions are surplus, permanent, quantifiable, and legally enforceable, and if the area has an EPA approved attainment plan. In addition, the shutdown or curtailment is creditable only if it occurred on or after the date specified for this purpose in the plan, and if such a date is on or after the date of the most recent emissions inventory used in the plan's demonstration of attainment. Where the plan does not specify a cutoff date for shutdown credits, the date of the most recent emissions inventory or attainment demonstration, as the case may be, shall apply. However, in no event may credit be given for shutdowns which occurred prior to August 7, 1977. For the purposes of this sub-part, the Technical Secretary may consider a prior shutdown or curtailment to have occurred after the date of its most recent emissions inventory, if the inventory explicitly includes as current existing emissions the emission from such previously shutdown or curtailed source (Federal Register/Vol. 51, No. 233/Thursday, December 4, 1986, Emissions Trading Policy Statement; General Principles for Creation, Banking, and Use of Emission Reduction Credits).

II. The reductions described in sub-item 2.(v)(V)I. of this part may be credited in the absence of an approved attainment demonstration only if the shutdown or curtailment occurred on or after the date the new source application is filed, or, if the applicant can establish that the proposed new source is a

replacement for the shutdown or curtailed source, and the cutoff date provisions of sub-item 2.(v)(V)I. of this part are observed.

(VI) With respect to a proposed increase in VOC emissions, no emissions credit shall be allowed for reductions in any organic compound specifically excluded from the definitions of "VOC" in this Division 1200-3.

(VII) Credit for an emissions reduction may be claimed to the extent that the reduction has not been relied on in any permit already issued under regulations approved pursuant to 40 CFR Parts 51, 52, and 70,(July 1, 1993) or the State has not relied on it in demonstrating attainment or reasonable further progress. Incidental emissions reductions which are not otherwise required under the federal Clean Air Act (As amended November 15, 1990) may be credible as emissions reductions for such purposes if such emissions reductions meet the applicable requirements of this part.

(VIII) Procedures relating to the permissible locations of offsetting emissions shall be followed which are at least as stringent as those set out in 40 CFR Part 51, Appendix S, Section IV.D. (July 1, 1993).

(vi) In a nonattainment area, prior to the issuance of a permit to a new major stationary source or major modification an analysis of alternate sites, sizes, production processes, and environmental control techniques for the proposed source shall be made. A permit shall only be issued if the benefits of the proposed source significantly outweigh the environmental and social costs imposed on the public as a result of the sources location, construction, or modification in the nonattainment area. The Technical Secretary shall require the submittal of such information as he deems necessary for this analysis.

(vii) The Technical Secretary shall not issue a permit to any major stationary source or major modification locating in or significantly impacting a nonattainment area unless all other sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) anywhere in the State are in compliance or on an approved compliance schedule.

(viii) If the nonattainment area is designated as attainment by the EPA Administrator between the date construction is approved under this subparagraph and before the new source start up date, the source has the option of applying for a new construction permit and relief from the requirements of this subparagraph.

(I) Any permit issued under this part shall remain in effect, unless it expires under subpart (xi) of this part or is rescinded.

(II) The Technical Secretary shall grant an application for rescission if the application shows that this part would not apply to the source or modification.

(III) If the Technical Secretary rescinds a permit under this sub-paragraph, the public shall be given adequate notice of the rescission. Publication

by the Technical Secretary of an announcement of rescission in a newspaper of general circulation in the affected region within 60 days of the rescission shall be considered adequate notice.

(ix) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any "legally enforceable limitation" which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Subparagraph 1200-3-9-.01(5)(b) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

(x) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the plan and any other requirements under local, state or federal law.

(xi) Approval to construct shall become invalid if construction is not commenced within 18 months after issuance of an approved construction permit, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the completion date specified on the construction permit application unless an extension has been granted from the Tennessee Air Pollution Control Board. Also, each phase of a phased construction project must meet the requirements stated above. An extension of time for a phased construction project may be requested for each phase or for the whole project. The above requirements do not apply to the time period between the construction of the approved phases of a phased construction project. The Tennessee Air Pollution Control Board may issue a variance granting an extension to complete construction of a source provided adequate justification is presented. Each extension shall not exceed 12 months in time.

3. Public Participation

(i) The Technical Secretary shall provide opportunity for public comment on information submitted by owners and operators. The public information must include the agency's analysis of the effect of construction or modification on ambient air quality, including the agency's proposed approval or disapproval. The opportunity for public comment shall include, as a minimum -

(I) Availability for public inspection in at least one location in the area affected of the information submitted by the owner or operator and of the Technical Secretary's analysis of the effect on air quality;

(II) A 30-day period for submittal of public comment; and

(III) A notice by prominent advertisement in the area affected of the location of the source information and analysis specified in Item (I) of the Sub-part. This notice shall be provided by the source owner or operator.

(ii) Where the 30-day comment period required in Item II of Sub-part (i) would conflict with existing requirements for acting on requests for permission to construct or modify, the Technical Secretary may submit for approval a comment period which is consistent with such existing requirements.

(iii) The Technical Secretary shall provide a copy of the notice required by Sub-part (i) of this part to the Administrator through the appropriate Regional Office, and to all other State and local air pollution control agencies having jurisdiction in the region in which such new or modified installation will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under this part. For lead, a copy of the notice is required for all point sources. The definition of point source for lead is given in 40 CFR Part 51.100(k)(2). (July 1, 1993).

4. Emissions banking for an air contaminant for which an area is designated nonattainment must be conducted in accordance with the EPA Part III, Emissions Trading Policy Statement..., Federal Register / Vol. 51, No. 233 / Thursday, December 4, 1986.

(6) Construction permits issued under this rule are based on the control of air contaminants only and do not in any way affect the applicant's obligation to obtain necessary permits from other governmental agencies.

(7) The applicant for a construction permit for its equivalent by Board order shall pay the cost of publication of any notices required by state or federal law or regulations to effectuate the rights applied for.

(8) Visibility Protection

(a) Definitions - Unless specifically defined in this part, all terms shall have the meaning given them in Chapter 1200-3-2, paragraph 1200-3-9-.01(4) and Chapter 1200-3-23.

1. **"Visibility protection area"** means any of the mandatory Federal Class I areas listed below. These areas are those mandatory Federal Class I areas where visibility values may be impacted by sources in Tennessee:

(i) Great Smoky Mountains National Park (NP), TN-NC.
(ii) Joyce Kilmer-Slickrock National Wilderness Area (NWA), TN-NC.
(iii) Cohutta National Wilderness Area (NWA), TN-NC
(iv) Linville Gorge National Wilderness Area, NC.
(v) Shining Rock National Wilderness Area, NC.
(vi) Sipsey National Wilderness Area, AL.
(vii) Mammoth Cave National Park, KY.
(viii) Mingo National Wilderness Area, MO.

2. (Reserved)

3. Class II areas in Tennessee are those areas already designated as mandatory Federal Class I areas. This corresponds to all areas of the State which area not part of Cohutta NWA or Great Smoky Mountains N.P., or Joyce Kilmer-Slickrock National Wilderness Area (NWA).

(b) Review of major stationary sources and major modifications - source applicability and exemptions.

1. No stationary source or modification to which the requirements of this part apply shall begin actual construction without a permit which states that the stationary source or modification would meet the applicable requirements.

2. The requirements of this part shall apply to construction of any new major stationary source or major modification that would be constructed in an area classified as nonattainment and potentially have an impact on visibility in any visibility protection area.

3. The requirements of this part shall apply to any major stationary source and any major modification with respect to each air contaminant that it would emit, except as this part otherwise provides.

4. The requirements of this part shall not apply to a particular major stationary source or major modification, if:

(i) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the governor of the State in which the source or modification would be located requests that it be exempt from those requirements; or

(ii) The source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(I) Coal cleaning plants (with thermal dryers);
(II) Kraft pulp mills;
(III) Portland cement plants;
(IV) Primary zinc smelters;
(V) Iron and steel mills;
(VI) Primary aluminum ore reduction plants;
(VII) Primary copper smelters;
(VIII) Municipal incinerators capable of charging more than 50 tons of refuse per day;
(IX) Hydrofluoric, sulfuric, or nitric acid plants;
(X) Petroleum refineries;
(XI) Lime plants;
(XII) Phosphate rock processing plants;
(XIII) Coke oven batteries;
(XIV) Sulfur recovery plants;
(XV) Carbon black plants (furnace process);
(XVI) Primary lead smelters;
(XVII) Fuel conversion plants;
(XVIII) Sintering plants;
(XIX) Secondary metal production plants;
(XX) Chemical process plants
(XXI) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
(XXII) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
(XXIII) Taconite ore processing plants;
(XXIV) Glass fiber processing plants;
(XXV) Charcoal production plants;
(XXVI) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(XXVII) Any other stationary source category which, as of August 7, 1980, is being regulated under Chapter 1200-3-16, New Source Performance Standards, or Chapter 1200-3-11, Hazardous Air Contaminants, or Chapter 1200-3-31, Standards for Hazardous Air Contaminants For Source Categories, or 40 CFR Part 60 and 61 (July 1, 1993).

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

(I) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary (a two year period); and

(II) The emissions from the source would not exceed its allowable emissions; and

(III) The emissions from the source would impact no visibility protection area and no area where an applicable increment is known to be violated; and

(IV) Reasonable notice is given to the Technical Secretary prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the Technical Secretary not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Technical Secretary.

5. The requirements of this part shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as attainment.

6. The requirements of this part shall not apply to a major stationary source or major modification with respect to a particular pollutant, it the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

(i) Would impact no visibility protection area and no area where an applicable increment is known to be violated, and

(ii) Would be temporary.

(c) Visibility impact analyses.

The owner or operator of a source shall provide an analysis of the impairment to visibility that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification.

(d) Federal land manager notification.

1. The Federal Land Manager (FLM) and the Federal official charged with direct responsibility for management of Federal Class I areas have an affirmative responsibility

to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the Technical Secretary whether a proposed source or modification will have an adverse impact on such values.

2. The Technical Secretary shall provide written notification to all affected Federal Land Managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any visibility protection area. The Technical Secretary shall also provide such notification to the Federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in any visibility protection area. The Technical Secretary shall also notify all affected FLM's within 30 days of receipt of any advance notification of any such permit application.

3. The Technical Secretary shall consider any analysis performed by the Federal Land Manager provided within 30 days of the notification and analysis required by part 2. of this subparagraph, that such proposed new major stationary source or major modification may have an adverse impact on visibility in any visibility protection area. Where the Technical Secretary finds that such an analysis does not demonstrate to the satisfaction of the Technical Secretary that an adverse impact on visibility will result in the visibility protection area, the Technical Secretary must, in the notice of public hearing, either explain his decision or give notice as to where the explanation can be obtained.

(e) National visibility goal.

The Technical Secretary shall only issue permits to those sources whose emissions will be consistent with making reasonable further progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in visibility protection areas in which impairment results from man-made air pollution. In making the decision to issue a permit the Technical Secretary may take into account the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(f) Monitoring.

The Technical Secretary may require monitoring of visibility in any visibility protection area near the proposed new stationary source or major modification for such purposes and by such means as the Technical Secretary deems necessary and appropriate.

Authority: ***T.C.A. Section 68-201-105 and 4-5-202.***

	Date Submitted to EPA	Date Approved by EPA	Final Federal Register Notice
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st Revision	JUN 22, 1978	JUN 07, 1979	44 FR 32681
2nd Revision	APR 12, 1979	APR 24, 1980	45 FR 27257

3rd Revision	OCT 25, 1979	APR 24, 1980	45 FR 27257
4th Revision	NOV 23, 1979	JUN 24, 1982	47 FR 27269
5th Revision	AUG 26, 1981	JUN 24, 1982	47 FR 27269
6th Revision	DEC 09, 1981	FEB 26, 1985	50 FR 7777
7th Revision	JAN 22, 1982	JUN 21, 1982	47 FR 26622
8th Revision	APR 22, 1983	FEB 25, 1985	50 FR 7778
9th Revision	SEP 01, 1983	FEB 25, 1985	50 FR 7778
10th Revision	SEP 01, 1993	JUL 29, 1996	61 FR 39332
11th Revision	AUG 17, 1994	APR 11, 1995	60 FR 7913
12th Revision	JAN 17, 1995*	JUL 18, 1996	61 FR 37387
13th Revision	JUN 10, 1996	JUL 29, 1996	61 FR 39332
14th Revision	FEB 27, 1997	JUL 29, 1997	62 FR 40458
15th Revision	FEB 11, 1999	JUL 19, 1999	64 FR 38580

1200-3-9-.02 OPERATING PERMITS

(1) Any person planning to operate an air contaminant source constructed or modified in accordance with a construction permit and/or waiver issued by the Technical Secretary in rule .01 of this chapter shall apply for and receive an operating permit from the Technical Secretary within sixty (60) days after commencement of the operation of said air contaminant source.

B. Any person operating an existing air contaminant source shall obtain an operating permit by the Final Compliance Date as shown in Table 1 and shall submit a Compliance Plan as shown in Table 1. An air contaminant source can readily determine which dates are applicable by reading Chapters V, VI, VII, and VIII.

1. Each compliance plan must provide for periodic increments of progress towards compliance. The dates for achievement of such increments shall be specified. Increments of progress shall include but not be limited to: Letting of necessary contracts for construction or process changes, if applicable; initiation of construction; completion and startup of control system; performance tests; and submittal of performance test analysis and results.

2. Any owner or operator required to submit a compliance schedule pursuant to this paragraph shall, within 10 days after the deadline for each increment of progress, certify to the Director whether or not the required increment of the approved compliance schedule has been met.

TABLE 1

Compliance Schedule for Existing Air Contaminant Sources

Final Compliance Date	Compliance Plan Due
Aug. 9, 1973	Feb. 9, 1971
July 1, 1975	Jan 1, 1973
July 1, 1977	Jan 1, 1973

C. Any person operating an air contaminant source constructed after August 9, 1969, and prior to April 3, 1972, must have an operating permit by October 3, 1972.

(3) Application for an operating permit shall be made on forms available from the Technical Secretary and signed by the applicant. Such application for an operating permit shall be filed with the Technical Secretary not less than thirty (30) days prior to the expiration of an existing operating permit.

(4) The operating permit shall only be issued on evidence satisfactory to the Technical Secretary that the operation of said air contaminant source is in compliance with any standards or rules and regulations promulgated by the Board and that the operation of said air contaminant source will not interfere with the attainment or maintenance of the secondary air quality standard. Such evidence may include a requirement that the applicant conduct such tests as are necessary in the opinion of the Technical Secretary to determine the kind and/or amount of air contaminants emitted from the source. Standard operating permits shall be valid for a period of one (l) year or for such time as deemed appropriate by the Technical Secretary. A permit issued for less than one year shall be designated as a temporary permit.

(5) Any person in possession of an operating permit shall maintain said operating permit readily available for inspection by the Technical Secretary or his designated representative on the operating premises.

(6) Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit.

(11) MAJOR STATIONARY SOURCE OPERATING PERMITS

(a) Statement of Purpose and General Intent. The requirements of paragraph 1200-3-9-.02(11) are promulgated in order to fulfill the requirements of Title B of the Federal Clean Air Act(42 U.S.C. 7661a-7661e) and the federal regulations promulgated thereunder at 40 CFR Part 70. (FR Vol. 57, No. 140, Tuesday, July 21, 1992 p.32295-32312). The federal law and regulations require unique approaches pertaining to federal involvement in the permitting activities specified in this paragraph. the federal government, acting by and through the United States Environmental Protection Agency (EPA), is a key party in the review, issuance, and revisions of permits issued under the provisions of this paragraph. It is the intent of the Board to comply with these federal requirements to the full extent allowed under the laws of the State of Tennessee. In the event that the federal law or regulations should require something that the Board has not yet promulgated as a rule, the permit applicant and the Technical Secretary may mutually agree to be governed by whatever emission limitations and/or procedural requirements that the federal rules require and that shall become a binding condition of the applicant's permit to operate. In addition, sources that are subject to this paragraph 1200-3-9-.02(11) may opt out of being subject to the provisions of paragraph 1200-3-9-.02(11) by limiting their potential to emit such that they are below the applicability threshold. In order to exercise this option, the source must agree to be bound by a permit which specifies the more restrictive limit and to be subject to detailed monitoring, reporting and recordkeeping requirements that prove the source is abiding by its more restrictive emission and/or production limits. The permit shall have a term not to exceed 10 years and shall be subjected to the opportunity for comment and hearing by EPA, affected states and the public consistent with the provisions of this paragraph. The permit shall contain a statement of basis comparing the source's potential to emit with the synthetic limit to emit and the procedures to be followed that will insure that the more restrictive limit is not exceeded. If the source later decides to increase its potential to emit, the new source review permit procedures of rule 1200-3-9-.01 shall apply.

Authority: *T.C.A. Section 68-25-105. Administrative History. Original Rule certified June 7, 1974. Amended effective February 9, 1977. Amended effective March 21, 1979.*

	Date Submitted to EPA	Date Approved by EPA	Final Federal Register Notice
Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st Revision	JAN 10, 1995	FEB 13, 1997	62 FR 6724

1200-3-9-.03 GENERAL PROVISIONS

(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 Chapter V, VI, VII, VIII 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.

(2) No person shall use any plan, activity, device or contrivance which the Technical Secretary determines will, without resulting in an actual reduction of air contaminants, conceal or appear to minimize the effects of an emission which would otherwise constitute a violation of these Regulations.

(3) No person shall discharge from any source whatsoever such quantities of air contaminant, uncombined water, or other materials which cause or have a tendency to cause a traffic hazard or an interference with normal means of public transportation.

(4) Any person affected by any of these regulations shall file emissions data, as a minimum once a year with the Technical Secretary on forms available from the Secretary.

(5)

(6) 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.

(7) The Technical Secretary may suspend or revoke any construction or operating permit or waiver if the permit holder fails to comply with the provisions, stipulations, or compliance schedules specified in the permit. Upon permit suspension or revocation, if the permit holder fails to take remedial action, he shall become immediately subject to enforcement actions prescribed by law.

Authority: *T.C.A. Section 68-25-105. Administrative History. Original Rule certified June 7, 1974. Amended effective February 9, 1977.*

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Original Reg	JAN 27, 1972	MAY 31, 1972	37 FR 10840
1st revision		MAR 29, 1985	50 FR 12540

1200-3-9-.04 EXEMPTIONS

The exemptions listed in paragraph (4) of this 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 1200-3-11
Chapter 1200-3-18
Chapter 1200-3-19
Chapter 1200-3-22
Chapter 1200-3-27
Paragraph 1200-3-31-.05(2)

In addition, the exemption provided for the air contaminant sources in paragraph (4) of this rule does not exempt them from inclusion in determining if a major stationary source or major modification construction permit is required under paragraph 1200-3-9-.01(4) and paragraph 1200-3-9-.01(5).

(2) Notwithstanding the exemptions granted in paragraph l above, 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.

(3) Any person may request that a federally enforceable permit be issued for any of the air contaminant sources that are exempted in paragraph 1200-3-9-.04(4). "Federally enforceable" shall have the meaning as provided in paragraph 1200-3-9-.02(11).

(4) The list of exempted air contaminant sources contained in this paragraph shall not be used as "insignificant activities" or "insignificant emission units" when applying for a major source operating permit under paragraph 1200-3-9-.02(11). Otherwise, no person shall be required to obtain or file a request for a State permit due to ownership, operation, construction, or modification of the following air contaminant sources unless specifically required to do so by the Board or as provided for in paragraph (3) of this rule:

(a) Fuel burning equipment of less than 500,000 Btu per hour capacity. This exemption shall not apply where the total capacity of such equipment operated by one person exceeds 2.00 million Btu per hour.

(b) A single stack of an air contaminant source that emits no gaseous, or hazardous air contaminants or pollutants, and which does not have the potential for emitting more than 0.50 pounds per hour of nonhazardous particulates (particulates not defined as hazardous air contaminants or pollutants), provided that the total potential particulate emissions from the air contaminant source amounts to less than two (2) pounds per hour. For the purpose of this subparagraph, an air contaminant source includes all sources located within a contiguous area, and under common control.

(c) Any air contaminant source constructed and operated at a domestic residence for domestic use except where Chapter 1200-3-4, Open Burning, requires permit issuance, or where open burning is expressly prohibited.

(d) Equipment used exclusively to store, hold, or distribute natural gas excluding all associated fuel burning equipment not specifically exempted.

(e) Brazing, soldering, or welding equipment except those which emit lead in amounts equal to or greater than 0.6 tons per year.

(f) Sources 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 soursce in those counties if the local regulation is less stringent than the applicable state regulation.

(g) Automobile body shops - 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.

(h) Any process emission source emitting less than 0.1 pounds per hour of a pollutant excluding hazardous air contaminants or pollutants.

(i) Any air contaminant source with the potential to emit radionuclides which will result in a dose to the most exposed member of the public of less than 0.1 millirem per year. Even though radionuclide air contaminant sources are regulated under Chapter 1200-3-11, this exemption is still valid except that recordkeeping and reporting requirements must be met.

(j) The air contaminant sources listed in parts 1200-3-9-.04(5)(f) 1. through 120. excluding parts 17., 81., 87., and 88.

(k) The air contaminant sources listed in parts 1200-3-9-.04(5)(g) 3. through 22.

(l) Any modification (as defined in Rule 1200-3-2-.01) to an existing process emission source, incinerator, or fuel-burning installation to add sources of equipment leaks (e.g. valves, flanges, pumps, compressors, etc.) as long as the estimated increase in annual emissions attributable to the modification does not exceed 5 tons per year. However, such emissions increases shall be considered when making major modification determinations pursuant to paragraphs 1200-3-9-.01(4) and (5).

Authority: *T.C.A. Section 68-25-105. Administrative History. Original rule certified June 7, 1974. Amended effective February 9, 1977.*

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1200-3-9-.05 APPEAL OF PERMIT APPLICATION DENIALS AND PERMIT CONDITIONS

(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.

(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.

(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 TCA, Sections 4-5l6-517, by filing and detailing the request with the petition.

(4) Within thirty (30) days a 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.

(5) In any case where a condition is placed on a permit, the imposition of that permit condition may be appealed by filing with the Technical Secretary within thirty (30) days after the mailing date of the permit a petition for reconsideration of permit conditions. The Technical Secretary shall schedule an administrative hearing to be held within forty-five days of receipt of the petition to be conducted in the same manner as hearings under 53-3414(H) with the resulting determination or order being appealable in the same manner. The petition for reconsideration of permit conditions shall specify which conditions and portions of conditions are objected to and specifying in detail the objections.

(6) All applicable provisions of Chapter 1200-3-17 on contested cases shall apply to the hearing before the Board on such appeals.

(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.

(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. Section 68-25-105. Administrative History. Original Rule certified November 16, 1979*

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Original Reg	NOV 23, 1979	JUN 24, 1982	47 FR 27269
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