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312 Rosa L. Parks, 8th Floor Snodgrass Tower  
Nashville, TN 37243  
Phone: 615.741.2650  
Fax: 615.741.5133  
Email: sos.information@state.tn.us

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Sequence Number: \_\_\_\_\_  
Notice ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_

# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	Environment & Conservation
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Jeff S. Cales
<b>Address:</b>	Cookeville EFO 1221 South Willow Ave. Cookeville, TN 38506
<b>Phone:</b>	(931) 432-7621
<b>Email:</b>	Jeff.Cales@state.tn.us

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	ADA Coordinator
<b>Address:</b>	TDEC ADA Coordinator 12 <sup>th</sup> Floor 401 Church Street Nashville, Tennessee 37243
<b>Phone:</b>	(615) 532-0207 or for hearing impaired, TN Relay Service 1-800-848-0298
<b>Email:</b>	Beverly.Evans@state.tn.us

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

Address 1:	9 <sup>th</sup> Floor L & C Annex		
Address 2:	401 Church Street		
City:	Nashville, Tennessee		
Zip:	37243-1531		
Hearing Date:	03/19/09		
Hearing Time:	9:30 AM	<input checked="" type="checkbox"/> CST	<input type="checkbox"/> EST

## Additional Hearing Information:

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations, and the State Implementation Plan pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. Seq.

Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of their comments to be submitted to the hearing officer at the public hearing. Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Thursday, March 19, 2009, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9<sup>th</sup> Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

If you have any questions about the origination of this rule change, you may contact Mr. Jeff S. Cales at (931) 432-7621. Copies of documents concerning this matter are available for review at the office of the Technical Secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. Malcolm H. Butler, 9<sup>th</sup> Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0600.

Revisions considered at this hearing may be adopted by the Tennessee Air Pollution Control Board under T.C.A. 68-201-105, the Board general authority to promulgate rules.

Materials concerning the proposed actions will be available at [www.state.tn.us/environment/apc/ppo/](http://www.state.tn.us/environment/apc/ppo/) and also for public inspection during normal working hours starting on February 16, 2009, at the following locations:

Air Pollution Control Division  
9th Floor, L & C Annex  
401 Church Street  
Nashville, TN 37243-1531

Pollution Control Division  
Metropolitan Health Dept.  
311 23rd Avenue, North  
Nashville, TN 37203

Air Pollution Control Division  
Cookeville EFO  
1221 South Willow Avenue  
Cookeville, TN 38506

Air Pollution Control Division  
Knoxville EFO  
3711 Middlebrook Pk., Suite 220  
Knoxville, TN 37921

Air Pollution Control Division  
Johnson City EFO  
2305 Silverdale Road  
Johnson City, TN 37601-2162

Air Pollution Control Division  
Jackson EFO  
1625 Hollywood Drive  
Jackson, TN 38305

Air Pollution Control Division  
Columbia EFO  
2484 Park Plus Drive  
Columbia, TN 38401

Knox County Department of  
Air Quality Management  
140 Dameron Avenue, Suite 242  
Knoxville, TN 37917

Division of Air Pollution Control  
Memphis-Shelby Co. Health Dept.  
814 Jefferson Avenue  
Memphis, TN 38105

Air Pollution Control Division  
Chattanooga EFO  
540 McCallie Avenue, Suite 550  
Chattanooga, TN 37402

Air Pollution Control Division  
Nashville EFO  
711 R. S. Gass Boulevard  
Nashville, TN 37243

Kingsport Public Library  
400 Broad Street  
Kingsport, TN 37660

Chattanooga-Hamilton County  
Air Pollution Control Bureau  
6125 Preservation Drive  
Chattanooga, TN 37416

U.S. EPA, Region IV  
APTMD - 12th Floor, Atlanta Federal Center  
61 Forsyth Street S.W.  
Atlanta, GA 30303  
c/o Ms. Kay Prince, Chief

All persons interested in the air quality of the State of Tennessee are urged to attend and will be afforded the opportunity to present testimony to the hearing officer regarding the proposed additions and/or revisions to the State Implementation Plan.

**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s) (ALL chapters and rules contained in filing must be listed here.)**

	<b>Chapter Number</b>	<b>Chapter Title</b>
	1200-03-09	Construction and Operating Permits
	<b>Rule Number</b>	<b>Rule Title</b>
	1200-03-09-.04	Exemptions

## Summary of Proposed Change

The proposed revision to Chapter 1200-03-09-.04(4)(d) consists of a new permit exemption for temporary-use air curtain destructors or temporary-use air curtain incinerators used in disaster recovery, with appropriate requirements stated in the exemption. This change is necessary to effectively regulate occasional disaster recovery efforts statewide, where no other safe and/or practical means of disposal is available.

### Text of Proposed Change

#### Chapter 1200-03-09 Construction and Operating Permits

#### Amendment

Subparagraph (d) of paragraph (4) of rule 1200-03-09-.04 Exemptions is amended by adding a new part number 25 for the permit exemption for small temporary-use air curtain destructors or air curtain incinerators used in disaster recovery, with appropriate requirements stated in the exemption so that, as amended, the new part 25. shall read:

25. Temporary-use air curtain destructors or temporary-use air curtain incinerators used in disaster recovery solely for disposal of materials resulting from a natural disaster, and when conducted in conformity with the following conditions:
  - (i) Fires disposing of structural and household materials and vegetation are allowed only when those structures or materials are destroyed or severely damaged by natural disaster. The air curtain destructor or air curtain incinerator shall only be used to combust debris in an area declared a State of Emergency by a local or State government, or the President, under the authority of the Stafford Act, has declared that an emergency or a major disaster exists in the area. Input from Emergency Management personnel may be requested in determining qualification with this criterion.
  - (ii) The maximum rated capacity for each temporary-use air curtain destructor or temporary-use air curtain incinerator shall not exceed 35 tons per day per unit.
  - (iii) The persons using temporary-use air curtain destructors or temporary-use air curtain incinerators under this provision must make a reasonable effort to remove all tires and other rubber products, vinyl shingles and siding, vinyl flooring, carpet, other plastics, asphalt shingles and other asphalt roofing materials, and/or asbestos containing materials from the materials to be burned before ignition. The Technical Secretary reserves the right to inspect the proposed materials to be burned before ignition. The alternative use of chippers and grinders, landfilling, or on-site burial of waste in lieu of burning, if lawful, is encouraged.
  - (iv) The person responsible for such burning must notify the Division of Air Pollution Control of the proposed location. The notification must be delivered to the Division of Air Pollution Control at the appropriate regional Environmental Field Office at least three (3) days prior to commencing the burn. The Division may request that alternate sites be identified to minimize impact to air quality. The alternative use of chippers and grinders in lieu of burning is encouraged.
  - (v) No fire shall be ignited while any air pollution emergency episode is in effect in the area of the burn.

- (vi) The air curtain destructor or air curtain incinerator shall only be used during a period that begins on the date the unit started operation and lasts 8 weeks or less within the boundaries of the same emergency or disaster declaration area.
- (vii) Disposal via temporary-use air curtain destructors or temporary-use air curtain incinerators conducted under this exception is only allowed where no other safe and/or practical means of disposal is available.
- (viii) The Technical Secretary reserves the right to require a person to cease or limit burning if emissions from the air curtain destructor or air curtain incinerator are deemed by the Technical Secretary or his designee to jeopardize public health or welfare, create a public nuisance or safety hazard, create a potential safety hazard, or interfere with the attainment or maintenance of the air quality standards.

Authority: T.C.A. §§68-201-105

Legal contact and/or party who will approve final copy for publication:

Mr. Jeff S. Cales  
Cookeville EFO  
1221 South Willow Ave.  
Cookeville, TN 38506  
(931) 432-7621

Contact for disk acquisition:

Mr. Malcolm H. Butler  
Division of Air Pollution Control  
401 Church Street  
Nashville, TN 37243-1531  
(615) 532-0600

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Name of Officer: Barry R. Stephens, P.E.

Director

Title of Officer: Tennessee Division of Air Pollution Control

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

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Filed with the Department of State on: \_\_\_\_\_

\_\_\_\_\_  
Riley C. Darnell  
Secretary of State