

**AGENDA**  
**STATE OF TENNESSEE**  
**REGULAR MEETING**  
**AIR POLLUTION CONTROL BOARD**  
**312 Rosa L. Parks Avenue**  
**Thursday November 12, 2020**  
**9:30 A.M.**

	<b>Item</b>	<b>Presenter</b>	<b>Page</b>
1.	Roll Call		
2.	Approval of the August 12, 2020 Air Pollution Control Board Meeting Minutes		2
3.	Eastman Variance Board Order 20-073	Travis Blake	7
4.	Final Amendments to 1200-03-14-.06	Travis Blake	9
5.	1200-03-09 and 21 Part 51 Appendix W Rule Revision	Mark Reynolds	29
	<b>General Business</b>		
6.	APC Board Briefing – Proposed Amendments to 1200-03-10-.02(1)(b)1	Travis Blake	60

The meeting will be held in compliance with Tennessee Code Annotated Section 8-44-108, as amended by Chapter 490 of the 1999 Public Acts of the Tennessee General Assembly. The meeting will be conducted permitting participation by electronic or other means of communication. Consequently, some members of the Tennessee Air Pollution Control Board are allowed to and may participate by electronic or other means of communication and may not be physically present at the announced location of the meeting.

The meeting will be held in compliance with Executive Order No. 16, issued by Governor Lee on March 20, 2020 (extended by Executive Orders No. 34, issued by Governor Lee on May 6, 2020; and Executive Order No. 51 issued by Governor Lee on June 29, 2020; and Executive Order No. 60 issued by Governor Lee on August 28, 2020; and Executive Order No. 65 issued by Governor Lee on October 28, 2020). As required by Executive Order No. 16, the meeting will comply with Tennessee Code Annotated Section 8-44-108(c). The meeting will be conducted through Webex and members of the Tennessee Air Pollution Control Board will participate by electronic or other means of communication.

Individuals with disabilities who require special accommodations or alternate communications formats should contact us at the Tennessee Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, Division of Human Resources, 312 Rosa L. Parks Avenue 22<sup>nd</sup> Floor, Nashville, Tennessee 37243 at (615) 532-0200 (or TDD 1-800-848-0298 for hearing impaired callers) no less than five (5) days prior to the scheduled meeting so reasonable accommodations can be made.

Air Pollution Control Board  
of the  
State of Tennessee  
Regular Meeting

On Wednesday August 12, 2020 at 9:30 A.M., the Air Pollution Control Board of the State of Tennessee, (hereinafter, referred to as the "Board"), began its meeting on the 15th Floor of the Tennessee Tower in Conference Rooms A and B. The following Board members were present via WebEx.

Dr. Ronnè Adkins  
Ms. Karen Cisler  
Dr. Joshua Fu  
Mr. Steve Gossett  
Dr. Shawn Hawkins  
Mr. Richard Holland  
Mayor Ken Moore  
Ms. Amy Spann  
Mr. Greer Tidwell  
Mayor Larry Waters  
Mr. Jimmy West

The following Board members did not join the meeting.

Dr. John Benitez  
Mr. Mike Haverstick  
Ms. Caitlin Jennings

Ms. Michelle Owenby, Director of Air Pollution Control, served as the Technical Secretary.

Mayor Waters asked for a roll call and the response was as follows:

Dr. Adkins	present	Mr. Holland	present
Dr. Benitez	absent	Ms. Jennings	absent
Ms. Cisler	present	Mayor Moore	present (late)

Dr. Fu	present	Ms. Spann	present
Mr. Gossett	present	Mr. Tidwell	present
Mr. Haverstick	absent	Mayor Waters	present
Dr. Hawkins	present	Mr. West	present

Eleven (11) Board members were present.

The first item on the agenda was the approval of the June 10, 2020 Board Meeting Minutes. Ms. Spann made a motion to approve and Dr. Fu seconded. The June 10, 2020 minutes were approved as written.

The Vice-Chair called for a roll call and the votes were as follows:

Dr. Adkins	yes	Mr. Holland	yes
Ms. Cisler	yes	Dr. Fu	yes
Ms. Spann	yes	Mr. Gossett	yes
Mr. Tidwell	yes	Mayor Waters	yes
Dr. Hawkins	yes	Mr. West	yes

The motion carried with ten (10) affirmative votes.

Mr. Mark Reynolds, Division of Air Pollution Control, briefed the Board members on the ozone Infrastructure State Implementation Plan (iSIP) and the draft Appendix W rule revision. Mr. Reynolds stated that the ozone NAAQS of 70 ppb was promulgated on October 1, 2015. The ozone iSIP was due on October 1, 2018. The Division submitted the ozone iSIP to EPA on September 17, 2018. After reviewing the ozone iSIP, EPA identified an issue with the Division's rules related to PSD and modeling. The Division rules adopt by reference an older version of 40 CFR Part 51 Appendix W, which are the Guidelines on Air Quality Models. Mr. Reynolds stated that EPA is requiring the Division to adopt the latest version of Appendix W, which was amended in 2017. The Division has committed to revising the Division rules, which reference Appendix W, within one year of EPA's conditional approval. EPA's conditional approval occurred on April 9, 2020 so the deadline to submit the rule change is April 9, 2021. Mr. Reynolds went over a proposed timeline to

finalize the rule revision. Mr. Reynolds answered questions from Board members Tidwell and Fu.

At this time the Technical Secretary welcomed Board members, presenters and attendees to the board meeting for August 12, 2020 and made the following statement: This meeting of the Tennessee Air Pollution Control Board is being held in compliance with Executive Order 16, issued by Governor Lee on March 20, 2020 (extended by Executive Order 34, issued by Governor Lee on May 6, 2020). In an effort to protect the health, safety and welfare of Tennesseans in light of the COVID-19 outbreak, this meeting is being held electronically via WebEx.

Ms. Owenby then turned the meeting back over to the Vice-Chair, Mayor Larry Waters.

Deputy Commissioner Greg Young and Ms. Mary-Margaret Chandler with the division provided the Board with the Title V Financial Update. Mr. Young spoke briefly to the Board then turned it over to Ms. Chandler, the Business Administrator for the Division. Ms. Chandler stated she would provide some context as to how we reached the recommendation that Deputy Commissioner Young just went over with you. I will not be providing any specific financial estimates or spreadsheets because, as Deputy Commissioner Young indicated, we are finding it especially difficult to provide reliable projections due to the high level of uncertainty we and the world are dealing with right now. Rest assured though, that we have worked hard to try and understand what our revenue and expense situations might look like under various scenarios and this work gives us a good level of confidence in being able to operate the program to meet requirements even with a stable fee rate for FY21-22 that reflects what will be in place for this year's fees (i.e., no fee increase). Just as we have been doing, it will be necessary to use the reserve to cover a portion of the expenses.

- As a reminder, we spend time each year looking at what our revenue might look like a few year's out as well as what our expenses will be in order to determine whether there is a need to recommend a change to the fees.
- After our Board meeting in June, we performed a survey with direct feedback and help from the regulated community to gain a better understanding on the impact Covid may have on their facilities.
  - We shared our preliminary estimates on three business scenarios as we began exploring potential impacts of Covid in the June Board meeting.
  - After following - up with the representatives of the regulated community through the Chamber, we were able to vet our business scenario of a 15%

reduction on all actual emissions with the survey results and believe that this scenario is a reasonable approach to use for planning purposes.

- As a caveat, the Division continues to be cautious as we project and estimate due to many unknowns, as mentioned by Deputy Commissioner Young.
- Here are some of the considerations that we included in our planning around various scenarios:
  - The state continues to work to close the books for FY20, but we are confident we will begin FY21 with more than \$1.5M, which is good news. Revenue estimates include the Board approved fee rule for FY19, which will deliver some level of additional revenue to the program, even if slightly reduced due to COVID-19 related impacts.
  - Current circumstances and state level controls in place are likely to ensure expenses are somewhat artificially constrained across the state for some amount of time, which provides a level of confidence that staffing within the program can be re-established to a similar level that we saw this past year without the need for additional revenue in FY21-22.
  - TDEC General & Administrative costs will return to the Division and can be covered through FY21-22.
  - The Division is committed to continue tightly controlling our expenses for mission critical work.
- With all these considerations, we estimate beginning FY23 with no less than half a million dollars; therefore, believe it is appropriate to recommend the Board consider forgoing a fee increase for FY21-22. We remain committed to continuing financial updates to the Board as we move through this fiscal year and look ahead to what the program need may be in FY22-23.
- At this time, the Division would like to hear from the Board and is specifically seeking direction on whether you would like for us to proceed with a fee rule for your consideration for FY21-22? Deputy Commissioner Young and Ms. Chandler answered questions from the board. Ms. Owenby provided some feedback as well.

Mr. Travis Blake with the Division briefed the Board on Revisions to Chapter 1200-03-14, the Ambient Monitoring requirements. Mr. Blake answered questions from the Board.

There being no further business to discuss Mayor Moore made a motion to adjourn and Mr. West seconded the motion. The meeting was adjourned at 10:32 am.

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(Signed) Michelle Owenby, Technical Secretary  
Tennessee Air Pollution Control Board

Approved at Nashville, Tennessee on November 12, 2020

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(Signed) Mayor Larry Waters, Vice-Chairman  
Tennessee Air Pollution Control Board

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(Signed) David Salyers, Chairman  
Tennessee Air Pollution Control Board

TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
BUREAU OF ENVIRONMENT  
DIVISION OF AIR POLLUTION CONTROL

IN THE MATTER OF )  
 )  
 )  
Eastman Chemical Company ) Order Number: 20-073  
(82-0003) )  
 )  
 )  
Variance Request )

BOARD ORDER

The following matter came before the Tennessee Air Pollution Control Board on November 12, 2020.

On September 11, 2020, Eastman Chemical Company requested that the Technical Secretary renew an existing variance (Board Order 19-073, issued December 11, 2019) pursuant to Tennessee Code Annotated §68-201-118 from the applicability provisions of Tennessee Air Pollution Control Regulations 1200-03-20-.03 (Notice Required When Malfunction Occurs) for excess sulfur dioxide emissions.

This rule states that when an air contaminant source malfunctions in such a manner as to cause emissions in excess of an applicable standard or permit condition, the owner or operator must promptly notify the Technical Secretary of the malfunction within 24 hours and must provide a statement of all pertinent facts, including the estimated duration of the malfunction. The rule also requires the owner or operator to notify the Technical Secretary when the malfunction has been corrected. Notification is not required for:

- Violations of the visible emission standard (excluding visible emissions caused by hazardous air pollutants named in Chapter 1200-03-11) which occur for less than 20 minutes in one day (midnight to midnight); or
- Emissions from sources located in attainment and unclassified areas that are not designated as significantly impacting on a nonattainment area, provided that emissions in excess of the standards will not and do not occur over more than a 24-hour period (or will not recur over more than a 24-hour period) and no damage to property and or public health is anticipated.

Any malfunction that creates an imminent hazard to health must be reported by telephone immediately to the Division's Nashville office and to the State Civil Defense.

The variance request states that because Eastman's Tennessee Operations facility is located in an area classified as nonattainment for the sulfur dioxide National Ambient Air Quality Standard (NAAQS), the rule and related Title V Operating Permit conditions require prompt notification to the Technical Secretary on any event (malfunction or breakdown) that results in emissions of sulfur dioxide in excess of applicable emission standards. For facilities located in attainment areas, only excess emission events that occur for more than 24 hours (or recur over more than a 24-hour period) require notification. Due to the type of process, Eastman's Coal Gasification facility experiences several short-term events a year that result in excess sulfur dioxide emissions that require these notifications. Eastman believes these notifications serve no useful purpose and that the administrative burden for both Eastman and the Division should be relieved. Any such events will be reported in Eastman's Title V semiannual compliance reports.

Rule 1200-03-20-.03 was adopted in 1979 and revised several times prior to the adoption of a final rule in 1994. Prior to the implementation of the Title V Operating Permit program in Tennessee, this rule ensured that excess emissions events would be reported to the Division.

Because Title V Operating Permits require facilities to semiannually report all deviations from permit conditions, the requirements of 1200-03-20-.03 are made redundant. The Division believes that the notification requirements should remain for longer term malfunction events (greater than 24 hours), but requiring facilities in nonattainment areas to immediately report short-term exceedances places an unnecessary administrative burden upon the facility and the Division. The Technical Secretary supports the granting of this variance to Eastman Chemical Company, subject to the following stipulations:

1. During the time period of this variance, the notification requirements of Tennessee Air Pollution Control Regulations 1200-03-20-.03, and any permit condition implementing this regulation, shall not apply to malfunction events resulting in excess sulfur dioxide emissions, provided that:
  - (a) Such events do not and will not occur over more than a 24-hour period (or will not recur over more than a 24-hour period);
  - (b) No damage to property and or public health is anticipated; and
  - (c) This variance shall not apply to any malfunction event(s) at emission sources 82-0003-01 (B-83 and B-253 powerhouses) or at emission source 82-0003-131 (B-325 powerhouse).
2. If notification is required for any malfunction event, prompt notification shall be provided by telephone to the Division's Nashville office within 24 hours of the malfunction. Any malfunction, regardless of duration, that creates an imminent hazard to health must be reported by telephone immediately to the Division's Nashville office and to the State Civil Defense.
3. This variance shall become effective on November 12, 2020.
4. This variance shall expire on November 11, 2021.

In consideration of the Technical Secretary's recommendation, the Board grants the Eastman Chemical Company variance request subject to the stipulations specified above. Entered and approved by the following Board Members on November 12, 2020.

_____	_____
_____	_____
_____	_____
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_____	_____
_____	_____

**Department of State  
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Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Air Pollution Control Board
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Travis Blake
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0617
<b>Email:</b>	<a href="mailto:travis.blake@tn.gov">travis.blake@tn.gov</a>

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

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-14	Control of Sulfur Dioxide Emissions
Rule Number	Rule Title
1200-03-14-.01	General Provisions

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

Chapter 1200-03-14  
Control of Sulfur Dioxide Emissions

Amendments

Paragraph (6) of Rule 1200-03-14-.01 General Provisions is amended by deleting it in its entirety and substituting instead the following:

- (6) Except as otherwise allowed by subparagraph (d) of this paragraph, every owner or operator of a fuel burning installation having a total rated capacity greater than 1,000 million Btu per hour or of a process emission source emitting more than 1,000 tons per year of sulfur dioxide during any calendar year shall:
- (a) Demonstrate to the satisfaction of the Technical Secretary, that the sulfur dioxide emitted, either alone or in contribution to other sources, will not interfere with attainment and maintenance of any primary or secondary air quality standard. Any such demonstration must be based on the allowable emission rate specified in the source's construction or operating permit(s) and the source's maximum rated capacity.
  - (b) Install and maintain air quality sensors to monitor attainment and maintenance of ambient air quality standards in the areas influenced by the emissions from such installation. Monitoring shall be performed, and results of such monitoring shall be provided in the manner and form directed by the Technical Secretary. Owners or operators may petition and be granted permission by the Technical Secretary to terminate ambient air quality monitoring provided two complete calendar years of air quality data has been generated in the area under the influence of the source's emissions. Petitions may be granted only if the conditions of parts 2 and 3 of this subparagraph are met. For the purpose of this paragraph, "complete" shall mean that all data were collected in accordance with the requirements for data collection, completeness, and quality assurance requirements specified in the source's Title V Operating Permit.
    - 1. Reserved.
    - 2. The source must be located in an attainment area and must not significantly impact a sulfur dioxide nonattainment area.
    - 3. Measurements of air quality in the vicinity of the source demonstrate that ambient sulfur dioxide levels do not exceed 75 percent of the Tennessee Ambient Air Quality Standards.
  - (c) Reserved.
  - (d) The requirements of subparagraph (b) of this paragraph shall not apply to any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions.

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

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Board Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
<b>Dr. Ronné Adkins</b> Commissioner's Designee, Dept. of Environment and Conservation					
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants					
<b>Karen Cisler</b> Environmental Interests					
<b>Stephen Gossett</b> Working for Industry with technical experience					
Dr. Shawn A. Hawkins Working in field related to Agriculture or Conservation					
<b>Richard Holland</b> Working for Industry with technical experience					
<b>Caitlin Roberts Jennings</b> Small Generator of Air Pollution representing Automotive Interests					
<b>Ken Moore</b> Working in Municipal Government					
<b>Dr. Joshua Fu</b> Involved with Institution of Higher Learning on air pollution evaluation and control					
<b>Mike Haverstick</b> Working in management in Private Manufacturing					
<b>Amy Spann, PE</b> Registered Professional Engineer					
<b>Greer Tidwell, Jr.</b> Conservation Interest					
<b>Larry Waters</b> County Mayor					
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 11/12/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/20/2020

Rulemaking Hearing(s) Conducted on: (add more dates). 11/03/2020

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

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

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

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Agency/Board/Commission: Air Pollution Control Board

Rule Chapter Number(s): Chapter 1200-03-14

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

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

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

## **Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

On behalf of the Air Pollution Control Board, the Division of Air Pollution Control received a letter dated October 8, 2020, from U. S. Environmental Protection Agency ("EPA") stating that EPA has no comments on the proposed rule.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The Division of Air Pollution Control anticipates that no small businesses will bear the cost of, or directly benefit from, these amended rules. None of the existing facilities subject to the amended rules are small businesses. Because this rule affects large emission sources in capital intensive industries, the Division believes that any new source subject to the amended rules would not be owned or operated by small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

With respect to small businesses, the Division anticipates that there would be no reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

- (3) A statement of the probable effect on impacted small businesses and consumers.

The Division expects that the proposed rule would have no effect on small businesses and consumers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The proposed rule is not projected to impact small business.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rule does not have a direct counterpart in the Code of Federal Regulations. 40 CFR Part 61, Subpart K establishes general requirements for State Implementation Plans to provide for legally enforceable testing, monitoring, recordkeeping, and reporting procedures.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The proposed rule is not projected to impact small business.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The Department anticipates that this amended rule will not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking amends paragraph (6) of Rule 1200-03-14-.01 as follows:

- Add a data completeness requirement for the two years of ambient data collected prior to termination of monitoring.
- Add an exemption for any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The change is not mandated by federal law or regulation.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Owners and operators of large sulfur dioxide emission sources are most directly affected by this rule. The rule change was adopted pursuant to a request for rulemaking by one affected facility, but the Tennessee Air Pollution Control Board did not receive specific comments urging adoption or rejection of the rule during the public comment period.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Air Pollution Control Board is not aware of any opinions that directly relate to the rulemaking.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No change in state and local government revenues and expenditures is expected to result from these amendments.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Travis Blake  
Division of Air Pollution Control  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 15th Floor  
Nashville, Tennessee 37243  
[travis.blake@tn.gov](mailto:travis.blake@tn.gov)

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Legislative Liaison  
Office of General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) \_\_\_\_\_

**(I) Any additional information relevant to the rule proposed for continuation that the committee requests.**

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

The rule updates Tennessee’s ambient sulfur dioxide monitoring requirements and removes the requirement for regulated entities to monitor ambient sulfur dioxide in areas with state-operated monitors.

Tenn. Code Ann. § 68-201-105 states that the air pollution control board has the power and duty to promulgate rules and regulations to effect the intent and purpose of the Tennessee Air Quality Act. Such rules and regulations may include, but are not limited to, those defining: ambient air quality standards; emission standards; general policies or plans; a system of permits; and a schedule of fees for review of plans and specifications, issuance or renewal of permits or inspection of air contaminant sources.

Tenn. Code Ann. § 4-5-201 states that except where the right to petition for a rule is restricted by statute to a designated group or except where the form of procedure for such petition is otherwise prescribed by statute, any municipality, corporation or any five (5) or more persons having an interest in a rule may petition an agency requesting the adoption, amendment or repeal of such rule. After submission of a petition, the agency shall, as promptly as is consistent with the orderly dispatch of its business, deny the request or grant the same or provide for some modified form of the proposed rule. If the agency grants the petition in whole or in part, it shall proceed to meet the rulemaking requirements set out in this chapter.
- (2) A determination that the action is the least-cost method for achieving the stated purpose.

The Air Pollution Control Board (“Board”) has determined that the rule is the least-cost method for achieving the stated purpose based on one facility’s projected savings of about \$12,000 per year in savings for labor and equipment. Similar savings could be realized by other facilities that become subject to this rule in the future.
- (3) A comparison of the cost-benefit relation of the action to nonaction.

The Board estimates an annual cost of \$12,000 per year (see #2 above) for nonaction. Because the rule affects areas in which Tennessee would be required to operate ambient monitors, regardless of whether the facility is required to operate its own monitors, there would be no additional benefit for nonaction.
- (4) A determination that the action represents the most efficient allocation of public and private resources.

The action represents the most efficient allocation of public and private resources because it removes redundant monitoring requirements.
- (5) A determination of the effect of the action on competition.

The Board expects that this action would have a minimal effect on competition because the regulated community consists of large, capital-intensive industries (e.g., chemical plants and electric utilities), which have high barriers to entry without regard to this action.
- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The Board expects that this action would not affect the cost of living in the geographical area in which the action would occur.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

The Board expects that this action would not affect employment in the geographical area in which the action would occur.

- (8) The source of revenue to be used for the action.

The Board expects that no additional sources of revenue would be required for this action.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

The Board expects that there would be negligible cost to this action, since the change removes a redundancy in the existing rule. The Board has identified one facility (Eastman Chemical Company in Kingsport) that will benefit directly from the removal of redundant monitors.

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Rule ID(s): \_\_\_\_\_  
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Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Air Pollution Control Board
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Travis Blake
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15th Floor Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0617
<b>Email:</b>	<a href="mailto:travis.blake@tn.gov">travis.blake@tn.gov</a>

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

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-14	Control of Sulfur Dioxide Emissions
Rule Number	Rule Title
1200-03-14-.01	General Provisions

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

Chapter 1200-03-14  
Control of Sulfur Dioxide Emissions

Amendments

Paragraph (6) of Rule 1200-03-14-.01 General Provisions is amended by deleting it in its entirety and substituting instead the following:

- (6) ~~Except as otherwise allowed by subparagraph (d) of this paragraph, every~~ Every owner or operator of a fuel burning installation having a total rated capacity greater than 1,000 million ~~BTU~~ Btu per hour or of a process emission source emitting more than 1,000 tons per year of sulfur dioxide during ~~calendar year 1972 or~~ any other calendar year ~~thereafter~~ shall:
- (a) Demonstrate to the satisfaction of the Technical Secretary, that the sulfur dioxide emitted, either alone or in contribution to other sources, will not interfere with attainment and maintenance of any primary or secondary air quality standard. Any such demonstration must be based on the allowable emission rate specified in the source's construction or operating permit(s) and the source's maximum rated capacity.
  - (b) Install and maintain air quality sensors to monitor attainment and maintenance of ambient air quality standards in the areas influenced by the emissions from such installation. ~~Such Monitoring shall be done performed, and results of such monitoring shall be provided in the manner and form directed by prescribed by the Technical Secretary. Results of such monitoring shall be provided to the Technical Secretary in the manner and form as he shall direct.~~ Owners or operators may petition and be granted permission by the Technical Secretary to terminate ambient air quality monitoring provided two complete calendar years of air quality data has been generated in the area under the influence of the source's emissions ~~to verify compliance with the Tennessee Ambient Air Quality Standards~~. Petitions may be granted only if the conditions of parts 1, 2, and 3 below of this subparagraph are met. For the purpose of this paragraph, "complete" shall mean that all data were collected in accordance with the requirements for data collection, completeness, and quality assurance requirements specified in the source's Title V Operating Permit.
    - 1. Reserved.
    - 2. The source must be located in an attainment area and must not significantly impact a sulfur dioxide nonattainment area.
    - 3. Measurements of air quality in the vicinity of the source demonstrate that ambient sulfur dioxide levels do not exceed 75 percent of the Tennessee Ambient Air Quality Standards.
  - (c) ~~Reserved. All calculations performed pursuant to demonstration required by rule .01(6) shall assume that the process emission source and fuel burning installation is operating at a maximum rated capacity.~~
  - (d) The requirements of subparagraph (b) of this paragraph shall not apply to any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions.

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

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Board Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
<b>Dr. Ronné Adkins</b> Commissioner's Designee, Dept. of Environment and Conservation					
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants					
<b>Karen Cisler</b> Environmental Interests					
<b>Stephen Gossett</b> Working for Industry with technical experience					
Dr. Shawn A. Hawkins Working in field related to Agriculture or Conservation					
<b>Richard Holland</b> Working for Industry with technical experience					
<b>Caitlin Roberts Jennings</b> Small Generator of Air Pollution representing Automotive Interests					
<b>Ken Moore</b> Working in Municipal Government					
<b>Dr. Joshua Fu</b> Involved with Institution of Higher Learning on air pollution evaluation and control					
<b>Mike Haverstick</b> Working in management in Private Manufacturing					
<b>Amy Spann, PE</b> Registered Professional Engineer					
<b>Greer Tidwell, Jr.</b> Conservation Interest					
<b>Larry Waters</b> County Mayor					
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 11/12/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/20/2020

Rulemaking Hearing(s) Conducted on: (add more dates). 11/03/2020

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

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

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

---

Agency/Board/Commission: Air Pollution Control Board

Rule Chapter Number(s): Chapter 1200-03-14

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

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

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

## **Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

On behalf of the Air Pollution Control Board, the Division of Air Pollution Control received a letter dated October 8, 2020, from U. S. Environmental Protection Agency ("EPA") stating that EPA has no comments on the proposed rule.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

The Division of Air Pollution Control anticipates that no small businesses will bear the cost of, or directly benefit from, these amended rules. None of the existing facilities subject to the amended rules are small businesses. Because this rule affects large emission sources in capital intensive industries, the Division believes that any new source subject to the amended rules would not be owned or operated by small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

With respect to small businesses, the Division anticipates that there would be no reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

- (3) A statement of the probable effect on impacted small businesses and consumers.

The Division expects that the proposed rule would have no effect on small businesses and consumers.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The proposed rule is not projected to impact small business.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rule does not have a direct counterpart in the Code of Federal Regulations. 40 CFR Part 61, Subpart K establishes general requirements for State Implementation Plans to provide for legally enforceable testing, monitoring, recordkeeping, and reporting procedures.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The proposed rule is not projected to impact small business.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The Department anticipates that this amended rule will not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This rulemaking amends paragraph (6) of Rule 1200-03-14-.01 as follows:

- Add a data completeness requirement for the two years of ambient data collected prior to termination of monitoring.
- Add an exemption for any fuel burning installation or process emission source located in an area in which the Technical Secretary operates one or more ambient sulfur dioxide air quality monitors in the area under the influence of the source's emissions.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The change is not mandated by federal law or regulation.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Owners and operators of large sulfur dioxide emission sources are most directly affected by this rule. The rule change was adopted pursuant to a request for rulemaking by one affected facility, but the Tennessee Air Pollution Control Board did not receive specific comments urging adoption or rejection of the rule during the public comment period.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Air Pollution Control Board is not aware of any opinions that directly relate to the rulemaking.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No change in state and local government revenues and expenditures is expected to result from these amendments.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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Division of Air Pollution Control  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 15th Floor  
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[travis.blake@tn.gov](mailto:travis.blake@tn.gov)

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Legislative Liaison  
Office of General Counsel

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) \_\_\_\_\_

**(I) Any additional information relevant to the rule proposed for continuation that the committee requests.**

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.
- The rule updates Tennessee's ambient sulfur dioxide monitoring requirements and removes the requirement for regulated entities to monitor ambient sulfur dioxide in areas with state-operated monitors.
- Tenn. Code Ann. § 68-201-105 states that the air pollution control board has the power and duty to promulgate rules and regulations to effect the intent and purpose of the Tennessee Air Quality Act. Such rules and regulations may include, but are not limited to, those defining: ambient air quality standards; emission standards; general policies or plans; a system of permits; and a schedule of fees for review of plans and specifications, issuance or renewal of permits or inspection of air contaminant sources.
- Tenn. Code Ann. § 4-5-201 states that except where the right to petition for a rule is restricted by statute to a designated group or except where the form of procedure for such petition is otherwise prescribed by statute, any municipality, corporation or any five (5) or more persons having an interest in a rule may petition an agency requesting the adoption, amendment or repeal of such rule. After submission of a petition, the agency shall, as promptly as is consistent with the orderly dispatch of its business, deny the request or grant the same or provide for some modified form of the proposed rule. If the agency grants the petition in whole or in part, it shall proceed to meet the rulemaking requirements set out in this chapter.
- (2) A determination that the action is the least-cost method for achieving the stated purpose.
- The Air Pollution Control Board ("Board") has determined that the rule is the least-cost method for achieving the stated purpose based on one facility's projected savings of about \$12,000 per year in savings for labor and equipment. Similar savings could be realized by other facilities that become subject to this rule in the future.
- (3) A comparison of the cost-benefit relation of the action to nonaction.
- The Board estimates an annual cost of \$12,000 per year (see #2 above) for nonaction. Because the rule affects areas in which Tennessee would be required to operate ambient monitors, regardless of whether the facility is required to operate its own monitors, there would be no additional benefit for nonaction.
- (4) A determination that the action represents the most efficient allocation of public and private resources.
- The action represents the most efficient allocation of public and private resources because it removes redundant monitoring requirements.
- (5) A determination of the effect of the action on competition.
- The Board expects that this action would have a minimal effect on competition because the regulated community consists of large, capital-intensive industries (e.g., chemical plants and electric utilities), which have high barriers to entry without regard to this action.
- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

The Board expects that this action would not affect the cost of living in the geographical area in which the action would occur.

- (7) A determination of the effect of the action on employment in the geographical area in which the action would occur.

The Board expects that this action would not affect employment in the geographical area in which the action would occur.

- (8) The source of revenue to be used for the action.

The Board expects that no additional sources of revenue would be required for this action.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

The Board expects that there would be negligible cost to this action, since the change removes a redundancy in the existing rule. The Board has identified one facility (Eastman Chemical Company in Kingsport) that will benefit directly from the removal of redundant monitors.

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

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*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Air Pollution Control Board
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Mark A. Reynolds
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 <sup>th</sup> Floor Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0559
<b>Email:</b>	<a href="mailto:mark.a.reynolds@tn.gov">mark.a.reynolds@tn.gov</a>

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

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.01	Construction Permits

Chapter Number	Chapter Title
1200-03-21	General Alternate Emission Standards
Rule Number	Rule Title
1200-03-21-.01	General Alternate Emission Standard

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

Chapter 1200-03-09  
Construction and Operating Permits

Amendments

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

- (f) In the issuance of construction permits for new air contaminant sources, or modifications, source impact analysis shall demonstrate that allowable emission increases would not cause or contribute to air pollution in violation of any ambient air quality standard in Chapter 1200-03-03, of any national ambient air quality standard, or any applicable maximum allowable increase as defined in paragraph (4) of this rule. As required, all estimates of ambient concentrations shall be based on applicable air quality models and databases acceptable to the Technical Secretary, and meeting the requirements specified in 40 CFR Part 51 Appendix W. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of Code of Federal Regulations (CFR). Where an air quality impact model specified in 40 CFR Part 51 Appendix W is inappropriate, the Technical Secretary may approve use of a modified model or substituted model on a case-by-case basis after consultation with and upon written approval from the EPA Administrator.

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

Subparagraph (k) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (k) Air Quality Models.

As required under this paragraph, all estimates of ambient concentrations shall be based on applicable air quality models and databases acceptable to the Technical Secretary and meeting the requirements specified in 40 CFR Part 51 Appendix W. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR), Where an air quality impact model specified in 40 CFR Part 51 Appendix W is inappropriate, the Technical Secretary may approve use of a modified model or substituted model 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.

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

Chapter 1200-03-21  
General Alternate Emission Standards

Amendments

Subparagraph (c) of paragraph (2) of Rule 1200-03-21-.01 General Alternate Emission Standard is amended by deleting it in its entirety and substituting instead the following:

- (c) The air contaminant source shall verify through modeling, consistent with the requirements specified in 40 CFR Part 51 Appendix W, that this alternate emission standard will yield equivalent or improved air quality for the pollutant involved. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR). For volatile organic compound emissions, modeling for ozone impacts may be required. Air quality need not improve or stay the same at every location affected by the alternate emission standard, but on balance, the air quality of the affected area must not be adversely affected. This will be demonstrated by modeling all included emission points at the proposed alternative levels and at the allowable emission level for sources subject to emissions standards in Chapter 1200-3-19 for the pollutant involved. The lower of either the allowable emission under other chapters in Division 1200-3 or actual emissions shall be used in all other modeling. In addition, the source shall demonstrate that the use of the alternate emission standard will not interfere with the attainment or maintenance of any ambient air quality standard nor violate any applicable ambient air quality standard nor violate any applicable ambient air increment.

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

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Board Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
<b>Dr. Ronné Adkins</b> Commissioner's Designee, Dept. of Environment and Conservation					
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants					
<b>Karen Cisler</b> Environmental Interests					
<b>Stephen Gossett</b> Working for Industry with technical experience					
Dr. Shawn A. Hawkins Working in field related to Agriculture or Conservation					
<b>Richard Holland</b> Working for Industry with technical experience					
<b>Caitlin Roberts Jennings</b> Small Generator of Air Pollution representing Automotive Interests					
<b>Ken Moore</b> Working in Municipal Government					
<b>Dr. Joshua Fu</b> Involved with Institution of Higher Learning on air pollution evaluation and control					
<b>Mike Haverstick</b> Working in management in Private Manufacturing					
<b>Amy Spann, PE</b> Registered Professional Engineer					
<b>Greer Tidwell, Jr.</b> Conservation Interest					
<b>Larry Waters</b> County Mayor					
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 11/12/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/20/2020

Rulemaking Hearing(s) Conducted on: (add more dates). 11/03/2020

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

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

Name of Officer: Michelle W. Owenby

Title of Officer: Technical Secretary

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Agency/Board/Commission: Air Pollution Control Board

Rule Chapter Number(s): Chapters 1200-03-09 and 1200-03-21

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

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

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments received during the comment period.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

It is estimated that less than 10 small businesses per year would be subject to the proposed rule. In general, major sources of air pollution emissions are the only facilities that are required to conduct modeling. Major sources are usually larger businesses and not smaller businesses. The proposed rule amendment does not create a new requirement to conduct modeling. The current rule already requires that modeling be conducted in certain circumstances. The proposed rule amendment simply updates the reference to the latest version of 40 CFR Part 51 Appendix W, which is the guidelines on air quality models.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

Modeling requires highly technical scientific knowledge and skill and is usually performed by an engineer or scientist with a bachelor's or graduate degree. A modeling analysis for a source costs a few thousand dollars. However, these rules do not create any new requirements and will not result in any new costs, as modeling is already required under the current rule.

- (3) A statement of the probable effect on impacted small businesses and consumers.

Modeling requires highly technical scientific knowledge and skill and is usually performed by an engineer or scientist with a bachelor's or graduate degree. A modeling analysis for a source costs a few thousand dollars. However, these rules are not anticipated to have a significant impact on small businesses and consumers. As stated above, these rules are only applicable to major sources of air pollution emissions, which are not typically small businesses. In addition, modeling is required under the current rules and these rules only update references to federal regulations setting out the guidelines for modeling.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There is no less burdensome, less intrusive, or less costly alternative. The U.S. Environmental Protection Agency requires that modeling be conducted for certain air pollution sources. Modeling ensures that the sources will not have an adverse effect on air pollution in the area.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rule adopts 40 CFR Part 51 Appendix W by reference.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There is no exemption available for small businesses from the requirement to conduct modeling. The U.S. Environmental Protection Agency requires that modeling be conducted for certain air pollution sources so exemption for small businesses is not possible.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The Board anticipates that these amendments will not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Air Pollution Control Board is incorporating by reference into Chapters 1200-03-09 and 1200-03-21 the current version of 40 CFR Part 51 Appendix W, which is the federal guideline on air quality models. The U.S. Environmental Protection Agency (EPA) is requiring this amendment as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The EPA identified that current Chapters 1200-03-09 and 1200-03-21 referenced outdated version of 40 CFR Part 51 Appendix W. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The U.S. Environmental Protection Agency (EPA) is requiring Chapters 1200-03-09 and 1200-03-21 to be amended as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The iSIP is required by the Clean Air Act Section 110(a)(1) and (2).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

In general, major sources of air pollution emissions will be most directly affected by this rule. The Board is not aware if these sources are for or against the adoption of the rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There will be no increase or decrease in state and local government revenue resulting from the promulgation of this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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Division of Air Pollution Control  
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[mark.a.reynolds@tn.gov](mailto:mark.a.reynolds@tn.gov)

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton  
Legislative Liaison  
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) 253-5339  
[Horace.Tipton@tn.gov](mailto:Horace.Tipton@tn.gov)

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

The Air Pollution Control Board is incorporating by reference into Chapters 1200-03-09 and 1200-03-21 the current version of 40 CFR Part 51 Appendix W, which is the federal guideline on air quality models. The U.S. Environmental Protection Agency (EPA) is requiring this amendment as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The EPA identified that current Chapters 1200-03-09 and 1200-03-21 referenced outdated version of 40 CFR Part 51 Appendix W. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended.

- (2) A determination that the action is the least-cost method for achieving the stated purpose.

There is no other method to update the references to 40 CFR Part 51 Appendix W in the rules that has a lesser cost. Modeling is required by the EPA for certain major air pollution sources and the EPA is requiring that these changes be made as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS).

- (3) A comparison of the cost-benefit relation of the action to nonaction.

The proposed rule amendment does not create a new requirement to conduct modeling and is required for the approval of the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The current rule already requires that modeling be conducted in certain circumstances. The proposed rule amendment simply updates the reference to the latest version of 40 CFR Part 51 Appendix W, which is the guidelines on air quality models. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended. There is no benefit to nonaction, which is not an option due to the requirements of federal law.

- (4) A determination that the action represents the most efficient allocation of public and private resources.

This rulemaking represents the most efficient allocation of public and private resources. Modeling is necessary to project how a new or modified air pollution source will impact the air quality of the area surrounding it. Modeling ensures that the sources will not have an adverse effect on air pollution in the area. Without the modeling analysis, sources could be modified or built that would jeopardize the attainment status of an area of the state. Modeling is the most efficient method of determining a sources future impact on an area.

- (5) A determination of the effect of the action on competition.

This action will have no effect on competition.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

This action will have no effect on the cost of living in any geographical area.

- (7) A determination of the effect of the action on employment in the geographical area in which the action

would occur.

This action will have no effect on employment in any geographical area.

- (8) The source of revenue to be used for the action.

The cost of modeling an air pollution source will continue to be paid for by the company that owns the source.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

There will be minimum economic impact of the action. Major sources of air pollution emissions will continue to pay for the cost of modeling. State personnel will continue to review the modeling analyses.

**Department of State  
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower  
Nashville, TN 37243  
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**For Department of State Use Only**

Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Air Pollution Control Board
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Mark A. Reynolds
<b>Address:</b>	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 <sup>th</sup> Floor Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0559
<b>Email:</b>	<a href="mailto:mark.a.reynolds@tn.gov">mark.a.reynolds@tn.gov</a>

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

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.01	Construction Permits

Chapter Number	Chapter Title
1200-03-21	General Alternate Emission Standards
Rule Number	Rule Title
1200-03-21-.01	General Alternate Emission Standard

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

Chapter 1200-03-09  
Construction and Operating Permits

Amendments

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

- (f) In the issuance of construction permits for new air contaminant sources, or modifications, source impact analysis shall demonstrate that allowable emission increases would not cause or contribute to air pollution in violation of any ambient air quality standard in Chapter 1200-03-03, of any national ambient air quality standard, or any applicable maximum allowable increase as defined in paragraph (4) of this rule. As required, all estimates of ambient concentrations shall be based on applicable air quality models, ~~and data bases databases~~ 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 specified in 40 CFR Part 51 Appendix W.~~ The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of Code of Federal Regulations (CFR). Where an air quality impact model specified in 40 CFR Part 51 Appendix W is inappropriate, the Technical Secretary may approve use of a modified model or another substituted model on a case-by-case basis after consultation with and upon written approval from the EPA Administrator.

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

Subparagraph (k) of paragraph (4) of Rule 1200-03-09-.01 Construction Permits is amended by deleting it in its entirety and substituting instead the following:

- (k) Air Quality Models.

~~All estimates of ambient concentrations~~ As required under this paragraph, all estimates of ambient concentrations shall be based on ~~the~~ applicable air quality models, ~~databases, and databases acceptable to the Technical Secretary~~ and ~~other~~ meeting the requirements specified in 40 CFR Part 51 Appendix W, ~~which is incorporated by reference.~~ The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR), Where an air quality impact model specified in 40 CFR Part 51 Appendix W is inappropriate, the ~~model may be~~ Technical Secretary may approve use of a modified model or another substituted 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.

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

Chapter 1200-03-21  
General Alternate Emission Standards

Amendments

Subparagraph (c) of paragraph (2) of Rule 1200-03-21-.01 General Alternate Emission Standard is amended by deleting it in its entirety and substituting instead the following:

- (c) The air contaminant source shall verify through modeling, consistent with ~~Guideline on Air Quality Models (Revised), EPA-450/2-78-027R with 1988 revisions~~ the requirements specified in 40 CFR Part 51 Appendix W, that this alternate emission standard will yield equivalent or improved air quality for the pollutant involved. The provisions of 40 CFR Part 51 Appendix W are hereby adopted by reference as published in the July 1, 2019 edition of the Code of Federal Regulations (CFR). For volatile organic compound emissions, modeling for ozone impacts may be required. Air quality need not improve or stay the same at every location affected by the alternate emission standard, but on balance, the air quality of the affected area must not be adversely affected. This will be demonstrated by modeling all included emission points at the proposed alternative levels and at the allowable emission level for sources subject to emissions standards in Chapter 1200-3-19 for the pollutant involved. The lower of either the allowable emission under other chapters in Division 1200-3 or actual emissions shall be used in all other modeling. In addition, the source shall demonstrate that the use of the alternate emission standard will not interfere with the attainment or maintenance of any ambient air quality standard nor violate any applicable ambient air quality standard nor violate any applicable ambient air increment.

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

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

<b>Board Member</b>	<b>Aye</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>	<b>Signature (if required)</b>
<b>Dr. Ronné Adkins</b> Commissioner's Designee, Dept. of Environment and Conservation					
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants					
<b>Karen Cisler</b> Environmental Interests					
<b>Stephen Gossett</b> Working for Industry with technical experience					
Dr. Shawn A. Hawkins Working in field related to Agriculture or Conservation					
<b>Richard Holland</b> Working for Industry with technical experience					
<b>Caitlin Roberts Jennings</b> Small Generator of Air Pollution representing Automotive Interests					
<b>Ken Moore</b> Working in Municipal Government					
<b>Dr. Joshua Fu</b> Involved with Institution of Higher Learning on air pollution evaluation and control					
<b>Mike Haverstick</b> Working in management in Private Manufacturing					
<b>Amy Spann, PE</b> Registered Professional Engineer					
<b>Greer Tidwell, Jr.</b> Conservation Interest					
<b>Larry Waters</b> County Mayor					
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on 11/12/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/20/2020

Rulemaking Hearing(s) Conducted on: (add more dates). 11/03/2020

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

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

Name of Officer: Michelle W. Owenby

Title of Officer: Technical Secretary

---

Agency/Board/Commission: Air Pollution Control Board

Rule Chapter Number(s): Chapters 1200-03-09 and 1200-03-21

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

\_\_\_\_\_  
Herbert H. Slatery III  
Attorney General and Reporter

\_\_\_\_\_  
Date

**Department of State Use Only**

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

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

There were no public comments received during the comment period.

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

It is estimated that less than 10 small businesses per year would be subject to the proposed rule. In general, major sources of air pollution emissions are the only facilities that are required to conduct modeling. Major sources are usually larger businesses and not smaller businesses. The proposed rule amendment does not create a new requirement to conduct modeling. The current rule already requires that modeling be conducted in certain circumstances. The proposed rule amendment simply updates the reference to the latest version of 40 CFR Part 51 Appendix W, which is the guidelines on air quality models.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

Modeling requires highly technical scientific knowledge and skill and is usually performed by an engineer or scientist with a bachelor's or graduate degree. A modeling analysis for a source costs a few thousand dollars. However, these rules do not create any new requirements and will not result in any new costs, as modeling is already required under the current rule.

- (3) A statement of the probable effect on impacted small businesses and consumers.

Modeling requires highly technical scientific knowledge and skill and is usually performed by an engineer or scientist with a bachelor's or graduate degree. A modeling analysis for a source costs a few thousand dollars. However, these rules are not anticipated to have a significant impact on small businesses and consumers. As stated above, these rules are only applicable to major sources of air pollution emissions, which are not typically small businesses. In addition, modeling is required under the current rules and these rules only update references to federal regulations setting out the guidelines for modeling.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

There is no less burdensome, less intrusive, or less costly alternative. The U.S. Environmental Protection Agency requires that modeling be conducted for certain air pollution sources. Modeling ensures that the sources will not have an adverse effect on air pollution in the area.

- (5) A comparison of the proposed rule with any federal or state counterparts.

The proposed rule adopts 40 CFR Part 51 Appendix W by reference.

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There is no exemption available for small businesses from the requirement to conduct modeling. The U.S. Environmental Protection Agency requires that modeling be conducted for certain air pollution sources so exemption for small businesses is not possible.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The Board anticipates that these amendments will not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The Air Pollution Control Board is incorporating by reference into Chapters 1200-03-09 and 1200-03-21 the current version of 40 CFR Part 51 Appendix W, which is the federal guideline on air quality models. The U.S. Environmental Protection Agency (EPA) is requiring this amendment as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The EPA identified that current Chapters 1200-03-09 and 1200-03-21 referenced outdated version of 40 CFR Part 51 Appendix W. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The U.S. Environmental Protection Agency (EPA) is requiring Chapters 1200-03-09 and 1200-03-21 to be amended as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The iSIP is required by the Clean Air Act Section 110(a)(1) and (2).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

In general, major sources of air pollution emissions will be most directly affected by this rule. The Board is not aware if these sources are for or against the adoption of the rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

The Board is not aware of any.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There will be no increase or decrease in state and local government revenue resulting from the promulgation of this rule.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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Division of Air Pollution Control  
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Nashville, Tennessee 37243  
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[mark.a.reynolds@tn.gov](mailto:mark.a.reynolds@tn.gov)

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Horace Tipton  
Legislative Liaison  
Office of General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

- (1) A description of the action proposed, the purpose of the action, the legal authority for the action and the plan for implementing the action.

The Air Pollution Control Board is incorporating by reference into Chapters 1200-03-09 and 1200-03-21 the current version of 40 CFR Part 51 Appendix W, which is the federal guideline on air quality models. The U.S. Environmental Protection Agency (EPA) is requiring this amendment as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The EPA identified that current Chapters 1200-03-09 and 1200-03-21 referenced outdated version of 40 CFR Part 51 Appendix W. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended.

- (2) A determination that the action is the least-cost method for achieving the stated purpose.

There is no other method to update the references to 40 CFR Part 51 Appendix W in the rules that has a lesser cost. Modeling is required by the EPA for certain major air pollution sources and the EPA is requiring that these changes be made as part of the approval process for the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS).

- (3) A comparison of the cost-benefit relation of the action to nonaction.

The proposed rule amendment does not create a new requirement to conduct modeling and is required for the approval of the Infrastructure State Implementation Plan (iSIP) for the 2015 Ozone National Ambient Air Quality Standard (NAAQS). The current rule already requires that modeling be conducted in certain circumstances. The proposed rule amendment simply updates the reference to the latest version of 40 CFR Part 51 Appendix W, which is the guidelines on air quality models. The EPA will not fully approve Tennessee's Ozone iSIP until the state rule is amended. There is no benefit to nonaction, which is not an option due to the requirements of federal law.

- (4) A determination that the action represents the most efficient allocation of public and private resources.

This rulemaking represents the most efficient allocation of public and private resources. Modeling is necessary to project how a new or modified air pollution source will impact the air quality of the area surrounding it. Modeling ensures that the sources will not have an adverse effect on air pollution in the area. Without the modeling analysis, sources could be modified or built that would jeopardize the attainment status of an area of the state. Modeling is the most efficient method of determining a sources future impact on an area.

- (5) A determination of the effect of the action on competition.

This action will have no effect on competition.

- (6) A determination of the effect of the action on the cost of living in the geographical area in which the action would occur.

This action will have no effect on the cost of living in any geographical area.

- (7) A determination of the effect of the action on employment in the geographical area in which the action

would occur.

This action will have no effect on employment in any geographical area.

- (8) The source of revenue to be used for the action.

The cost of modeling an air pollution source will continue to be paid for by the company that owns the source.

- (9) A conclusion as to the economic impact upon all persons substantially affected by the action, including an analysis containing a description as to which persons will bear the costs of the action and which persons will benefit directly and indirectly from the action.

There will be minimum economic impact of the action. Major sources of air pollution emissions will continue to pay for the cost of modeling. State personnel will continue to review the modeling analyses.



# Ozone iSIP and Appendix W Rule Revision

# Ozone iSIP

- Infrastructure State Implementation Plan (iSIP)
  - 2015 Ozone National Ambient Air Quality Standard (NAAQS)
- iSIP Required by Clean Air Act
  - Sections 110(a)(1) and 110(a)(2)

# Ozone iSIP

- Ozone standard of 70 parts per billion (ppb)
  - Promulgated on October 1, 2015
- Deadline for iSIP
  - 3 years after promulgation
  - October 1, 2018
  - TDEC submitted iSIP to EPA on September 17, 2018

# Ozone iSIP

- iSIP is a plan that provides for the implementation, maintenance, and enforcement of the ozone standard (NAAQS)

# Ozone iSIP

- EPA identified an issue with TN rules related to PSD and modeling
- TN rules adopt by reference
  - 40 CFR Part 51 Appendix W
  - Guidelines on Air Quality Models
  - Dispersion and Photochemical Modeling
  - TN rules adopt an older version (1986)
  - Needs to be updated to latest version (2017)

# Ozone iSIP

- EPA divided approval of Ozone iSIP into three parts:
  - 1) Prevention of Significant Deterioration (PSD), which includes modeling
  - 2) Prongs 1 & 2 (transport)
  - 3) All other Elements

# Ozone iSIP

- TDEC committed to revising rule within one year of EPA's conditional approval
- EPA published final Ozone iSIP conditional approval in Federal Register for PSD on April 9, 2020

# Proposed Timeline

<b>Event</b>	<b>Date</b>
EPA conditional approval of Ozone iSIP	April 9, 2020
Pre-Draft of Rule sent to EPA	August 2020
Review of Pre-Draft by EPA	August 2020
Public Notice (45-day comment period)	August 21, 2020
Public Hearing	November 3, 2020
APC Board Approval	November 12, 2020
Rule becomes State effective	February 2021
Submit final rule to EPA	February 2021
Deadline to submit rule revision to EPA	April 9, 2021

# Questions

Mark A. Reynolds

Environmental Consultant

Tennessee Department of Environment and  
Conservation

Division of Air Pollution Control

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# STATE OF TENNESSEE

Proposed Rulemaking - 1200-03-10-.02(1)(b)1

# Overview

- The Division of Air Pollution Control proposes to amend Chapter 1200-03-10 (Required Sampling, Recordkeeping, and Reporting) by modifying 1200-03-10-.02(1)(b)1.
- The rule requires certain fossil fuel-fired steam generators of greater than 250 MMBtu/hr heat input to install, calibrate, maintain, and operate continuous opacity monitoring systems (COMS) for the measurement of opacity.
- The proposed change would add an exemption for fossil fuel-fired steam generators to install and operate particulate matter continuous emissions monitoring systems (PM CEMS) or particulate matter continuous parameter monitoring system (PM CPMS) in accordance with 40 CFR 63 Subpart UUUUU in lieu of COMS.
- The proposed amendment also defines a “fossil fuel-fired steam generator” as a furnace or boiler used in the process of burning fossil fuel for the purpose of producing steam by heat transfer.
- Tennessee is proposing these changes in response to a petition for rulemaking pursuant to Tenn. Code Ann. § 4-5-201.

# Request for Rule Change (I)

- On March 26, 2019, the Tennessee Valley Authority (TVA) submitted a petition for rulemaking pursuant to Tennessee Code Annotated (Tenn. Code Ann.) section 4-5-201. Tenn. Code Ann. § 4-5-201 allows a municipality, corporation, or any five or more persons having to petition an agency for adoption, amendment or repeal of a rule. After submission of a petition, the agency must, as promptly as is consistent with the orderly dispatch of its business, grant or deny the request or provide for some modified form of the proposed rule.
- TVA's petition stated that Wet Flue Gas Desulfurization (FGD) was installed at Cumberland, Bull Run, and Kingston Fossil Plants to reduce sulfur dioxide (SO<sub>2</sub>) emissions. The wet FGD systems pass the Boiler's stack gases through sprays of water and limestone.
- Contact of the hot stack gas and water produces a visible steam plume. Opacity caused by uncombined water droplets is not a violation of the opacity standard, so the effect of the steam plume must be considered when measuring the opacity for compliance purposes.

# Request for Rule Change (II)

- COMS are typically installed in the boiler ductwork upstream of the wet scrubber but downstream of the primary particulate matter (PM) control device (electrostatic precipitator). Monitoring the opacity in this location excludes the effect of the wet steam plume. However, an opacity reading above the standard may not indicate a violation because the wet scrubber functions as a secondary PM control device (PM is removed by impingement with the water spray).
- TVA has installed PM CEMS to directly measure PM emissions at the Bull Run and Kingston Fossil Plants. In accordance with EPA's Performance Specification 11, the PM CEMS extracts and heats a flue gas sample above the water condensation temperature. The PM CEMS are located downstream of the wet scrubber and provide a more representative measurement of actual emissions.
- In consideration of the Technical Secretary's recommendation, the Board granted TVA's petition on May 8, 2019 (Board Order 19-033).

# Proposed Rule Changes

- The Division is proposing to add an exemption to the requirement to install COMS on fossil fuel-fired steam generators that install, certify, operate, and maintain a PM CEMS or PM Continuous Parametric Monitoring System (CPMS) in accordance with the requirements of 40 CFR 63 Subpart UUUUU, and that comply with the applicable emission standards, monitoring requirements, and work practices established by Subpart UUUUU.
- A PM CPMS is allowed by Subpart UUUU as a compliance option for PM but does not convert the output to units of the standard (the output is measured in a raw data signal such as milliamps).
- We are proposing to define “fossil fuel-fired steam generator” as a furnace or boiler used in the process of burning fossil fuel, as defined in Rule 1200-03-16-.03, for the purpose of producing steam by heat transfer.



**THANK YOU**