

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

**CHAPTER 1200-03-26
ADMINISTRATIVE FEES SCHEDULE**

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1200-03-26-.01 TENNESSEE VISIBLE EMISSIONS EVALUATION COURSE FEES.

- (1) The effective date of this fee schedule shall be July 16, 1990.
- (2) Fee Schedule

Initial Certification Tennessee Applicant	\$125.00
Recertification Tennessee Applicant	\$95.00
Initial Certification Out-of-State Applicant	\$175.00
Recertification Out-of-State Applicant	\$125.00

Authority: T.C.A. §§ 4-5-202, et seq. and 68-201-105. **Administrative History:** Original rule filed June 1, 1990; effective July 16, 1990. Repeal and new rule filed July 5, 1994; effective September 18, 1994.

1200-03-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES.

- (1) Purpose
 - (a) It is the purpose of this rule to establish construction fees, annual emission fees, and permit review fees for sources subject to permitting pursuant to Division 1200-03 sufficient to supplement existing state and federal funding that covers reasonable costs (direct and indirect) associated with the development, processing, and administration of the air pollution control program. This will provide for better quality evaluation of the impact of air emissions on the citizens of Tennessee, and timely permitting services for sources subject to permitting requirements.
 - (b) Such costs shall include, but not be limited to, costs associated with review of applications and reports, issuance of required permits and associated inspections of sources, unit observation, review and evaluation of monitoring results (stack and/or ambient), modeling, and costs associated with any necessary enforcement actions (excluding penalties assessed).
 - (c) Annual emission fees collected from major sources and all sources subject to paragraph (11) of Rule 1200-03-09-.02 shall be used to pay for the direct and indirect costs of:
 1. Preparing generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;

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2. Reviewing and acting on any application for a permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;
3. General administrative costs of running the permit program, including the supporting and tracking of permit applications, compliance certification and related data entry;
4. Implementing and enforcing the terms of any 40 C.F.R. Part 70 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;
5. Emissions and ambient monitoring;
6. Modeling, analyses, or demonstrations;
7. Preparing inventories and tracking emissions; and
8. Providing direct and indirect support to sources under the Small Business Environmental Assistance Program.

(2) Definitions

Unless specifically defined in this Chapter, the definitions from Chapter 1200-03-02 will apply. All terms defined in this chapter apply only to the provisions of this chapter.

- (a) "Air contaminant" is particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combinations thereof.
- (b) "A Source subject to Fees (Source)" is any and all sources of emission of air contaminants, whether privately or publicly owned or operated, that is required to obtain a permit.
- (c) "Annual accounting period" is a twelve (12) consecutive month period. For sources subject to paragraph (11) of Rule 1200-03-09-.02, the annual accounting period shall be either of the following: the calendar year (January 1 to December 31) or the state fiscal year (July 1 to June 30). For sources not subject to paragraph (11) of Rule 1200-03-09-.02, the annual accounting period is the twelve consecutive month period as specified in paragraph (6) of this rule.
- (d) "Allowable emissions" mean the emissions rate of a source calculated at full design capacity operating twenty-four (24) hours per day, every day of the annual accounting period or calculated at the operating time and/or other operating conditions specified in a legally enforceable permit, and the most stringent of the following:
 1. The applicable standards under Division 1200-03;
 2. The emission rate specified in a legally enforceable permit condition established pursuant to rule 1200-03-09-.01 including those with a future compliance date; or pursuant to rule 1200-03-09-.02; or
 3. If no allowable emission rate is specified pursuant to part 1. or part 2. above, the actual emissions will equal the allowable emission rate solely for the purposes of fee computation. In no way is this item to be considered the setting of a binding emission limitation pursuant to the provisions of chapter 1200-03-09. The actual

(Rule 1200-03-26-.02, continued)

emission rate will be calculated as the maximum actual emissions expected of full design capacity operating twenty-four (24) hours per day, every day of the annual accounting period, or expected at the operating time specified in a legally enforceable permit.

- (e) "Division" means the Tennessee Division of Air Pollution Control.
- (f) "Legally enforceable" means all limitations and conditions which are enforceable by the Technical Secretary, including those under this Division 1200-03, Division 0400-30, the State Implementation Plan, and any permit requirements established pursuant to Chapter 1200-03-09. For major sources and sources subject to paragraph (11) of Rule 1200-03-09-.02, legally enforceable also includes a limitation or condition that is enforceable by the United States Environmental Protection Agency or its administrator.
- (g) "Major source" means any source or group of sources located within a contiguous area, and under common control which is regulated by one of the following:
 - 1. A source subject to the Prevention of Significant Deterioration (PSD) requirements, paragraph 1200-03-09-.01(4).
 - 2. A source subject to the requirements for nonattainment areas, subparagraph 1200-03-09-.01(5)(b) which must meet a lowest achievable emission rate (LAER) limitation.
 - 3. "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person [or persons under common control]) belonging to a single major industrial grouping and that are described in subparts (i), (ii), or (iii) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.
 - (i) A major source under section 112 of the Federal Act which is defined as:
 - (I) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Federal Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
 - (II) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

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- (ii) A major stationary source of air pollutants, as defined in section 302 of the Federal Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Federal Act, unless the source belongs to one of the following categories of stationary sources:
 - (I) Coal cleaning plants (with thermal dryers);
 - (II) Kraft pulp mills;
 - (III) Portland cement plants;
 - (IV) Primary zinc smelters;
 - (V) Iron and steel mills;
 - (VI) Primary aluminum ore reduction plants;
 - (VII) Primary copper smelters;
 - (VIII) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - (IX) Hydrofluoric, sulfuric, or nitric acid plants;
 - (X) Petroleum refineries;
 - (XI) Lime plants;
 - (XII) Phosphate rock processing plants;
 - (XIII) Coke oven batteries;
 - (XIV) Sulfur recovery plants;
 - (XV) Carbon black plants (furnace process);
 - (XVI) Primary lead smelters;
 - (XVII) Fuel conversion plant;
 - (XVIII) Sintering plants;
 - (XIX) Secondary metal production plants;
 - (XX) Chemical process plants;
 - (XXI) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (XXII) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

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- (XXIII) Taconite ore processing plants;
 - (XXIV) Glass fiber processing plants;
 - (XXV) Charcoal production plants;
 - (XXVI) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (XXVII) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Federal Act, but only with respect to those air pollutants that have been regulated for that category;
- (iii) A major stationary source as defined in part D of title I of the Federal Act, including:
- (I) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as “marginal” or “moderate,” 50 tpy or more in areas classified as “serious,” 25 tpy or more in areas classified as “severe,” and 10 tpy or more in areas classified as “extreme”; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Federal Act, that requirements under section 182(f) of the Federal Act do not apply;
 - (II) For ozone transport regions established pursuant to section 184 of the Federal Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (III) For carbon monoxide nonattainment areas (1) that are classified as “serious,” and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (IV) For particulate matter (PM-10) nonattainment areas classified as “serious,” sources with the potential to emit 70 tpy or more of PM-10.
- (h) “Minor Source” means any source or group of sources located within a contiguous area, and under common control which is not a major or conditional major source for the purposes of this rule. However, for the sole purpose of emission fee calculation, affected sources subject to the acidic precipitation requirements of Title IV of the Federal Clean Air Act embodied at 42 U.S.C. §§ 7401 et seq. shall be considered minor sources subject to the provisions of paragraph 1200-03-26-.02(6) until the year 2000. At that time, the affected sources will become major sources subject to paragraph 1200-03-26-.02(9).
- (i) “Regulated pollutant” means allowable emissions (and/or actual emissions for major sources) of 4,000 tons per year or less from a source for each of the following compounds or substances:

(Rule 1200-03-26-.02, continued)

1. Each pollutant regulated under chapter 1200-03-11 HAZARDOUS AIR CONTAMINANTS (Excluding Transitory Asbestos from construction, demolition, and renovation).
2. Each regulated pollutant from a source subject to the provisions of chapter 1200-03-16 NEW SOURCE PERFORMANCE STANDARDS.
3. Volatile Organic Compounds (VOC)
4. Particulates
5. For major sources, the following pollutants:
 - (i) Nitrogen oxides or any volatile organic compounds:
 - (ii) Any pollutant for which a national ambient air quality standard has been promulgated;
 - (iii) Any pollutant that is subjected to any standard promulgated under section 111 of the Federal Act; provided, however, that any such pollutant shall not be a regulated pollutant solely because the pollutant is a constituent of greenhouse gases;
 - (iv) Deleted.
 - (v) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Federal Act, including sections 112(g), and (j), of the Act, including the following:
 - (I) Any pollutant subject to requirements under section 112(j) of the Federal Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Federal Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Federal Act; and
 - (II) Any pollutant for which the requirements of section 112(g)(2) of the Federal Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement except that carbon monoxide, any pollutant regulated as a Class I or Class II substance subject to a standard promulgated under Title VI of the Federal Clean Air Act or any pollutant regulated solely because it is subject to the provision of Section 112(r) of the Federal Clean Air Act shall not be included in the compilation of pollutants at part 1200-03-09-02(11)(b)19.
6. Sulfur Dioxide (SO₂)
7. Nitrogen Oxides (NO_x)
8. Lead (Pb)
9. Gaseous Fluorides expressed as Hydrogen Fluoride (HF)
10. Carbon Monoxide (no charge)

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11. Hydrogen Chloride (HCl)
12. Each hazardous air pollutant listed below actually emitted or allowed to be emitted from a source subject to paragraph (11) of Rule 1200-03-09-.02.

<u>CAS No.</u>	<u>Chemical name</u>
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate(DEHP)
542881	Bis(chloromethyl) ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane

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132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3'-Dimethylbenzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl Chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichlorethane)
107211	Ethylene glycol
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Hepotachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)

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74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Arochlors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine

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1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide compounds ¹
0	Glycol ethers ^{2, 6}
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers ³
0	Nickel Compounds
0	Polycyclic Organic Matter ⁴
0	Radionuclides (including radon) ⁵
0	Selenium Compounds

(j) "Construction" means for the purpose of this rule, any activities that require a source to obtain a construction permit under the provisions of rule 1200-03-02-.01 and rule 1200-03-09-.01.

(k) "Synthetic minor source" is a minor or major source that wishes to restructure its allowable emissions for the purposes of lowering its annual emission fees. Upon mutual

¹ X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

² Include mono- and di-ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n- OR'.

Where:

n = 1, 2, or 3;

R = alkyl C7 or less; or

R = phenyl or alkyl substituted phenyl;

R' = H or alkyl C7 or less; or

OR' consisting of carboxylic acid ester, sulfate, phosphate, nitrate, or sulfonate.

This action deletes each individual compound in a group called the surfactant alcohol ethoxylates and their derivatives (SAED) from the glycol ethers category in the list of hazardous air pollutants (HAP) established by section 112(b)(1) of the Clean Air Act (CAA).

³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

⁴ Includes organic compounds with more than or equal to 100°C which have a boiling point greater than or equal to 100°C

⁵ A type of atom which spontaneously undergoes radioactive decay.

⁶ The substance ethylene glycol monobutyl ether (EGBE, 2-Butoxyethanol) (Chemical Abstract Service (CAS) Number 111-76-2) is deleted from the list of hazardous air pollutants established by 42 U.S.C. § 7412(b)(1).

(Rule 1200-03-26-.02, continued)

agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee.

- (l) “Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Federal Act, or the term “capacity factor” as used in title IV of the Federal Act or the Federal regulations promulgated thereunder.
- (m) “Responsible official” means one of the following:
 - 1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (ii) The delegation of authority to such representative is approved in advance by the Technical Secretary;
 - 2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - 3. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. for the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
 - 4. For affected sources:
 - (i) The designated representative in so far as actions, standards, requirements, or prohibitions under title IV of the Federal Act or the regulations promulgated thereunder are concerned; and
 - (ii) The designated representative for any other purposes under Division Rules. However, a person other than the designated representative may serve as the responsible official for non title IV activities.
- (n) “Federal Act” means the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. as amended by Public Law No. 101-549 (November 15, 1990).
- (o) “Affected source” shall have the meaning given to it in the federal regulations promulgated under title IV of the Federal Act.
- (p) “EPA or the Administrator” means the Administrator of the EPA or his designee.

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- (q) "Conditional Major Source" for the purpose of fee payments, means a source that would otherwise be considered a major source under potential to emit conditions if it were not for a mutually agreed upon, more restrictive permit limit than that prescribed by regulation or a more restrictive permit limitation upon operating hours and/or production rates than that which would otherwise be possible at the source.
- (r) "Permit review fee" is a fee charged to conditional major sources to cover the costs associated with insuring the source is operating below the major source emission thresholds. These costs include, but are not limited to, inspections of the source, and review of annual reports for this facility.
- (s) "Greenhouse gases" means the air pollutant defined in part 86.1818-12(a) of Chapter I of Title 40 of the Code of Federal Regulations as the aggregate group of the following six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(3) GENERAL PROVISIONS.

- (a) A source must meet all provisions and limitations specified in the permit(s) for construction and operation of the source.
- (b) On or after December 1, 1991, all annual emission fees must be paid in full by the due date specified in paragraph (6)(c) of this rule. Major sources subject to the provisions of paragraph 1200-03-26-.02(9) shall continue to pay annual emission fees under the provisions of paragraph 1200-03-26-.02(6) until July 1, 1994. In the year of their transition from the provisions of the aforementioned paragraph to the provisions of paragraph 1200-03-26-.02(9), the major source must pay the fractional balance of their schedule I fee calculation period (number of months from the due date to July 1, 1994 divided by 12, that quotient being multiplied against the appropriate annual emission fee from Schedule III). Thereafter, the provisions of paragraph 1200-03-26-.02(9) shall apply.
- (c) Any source exempted in rule 1200-03-09-.04 EXEMPTIONS is exempt from the annual emission fee requirements of this chapter. However, the emissions from any exempt source must comply with all rules and regulations of the Tennessee Air Pollution Control Board.
- (d) Reserved.
- (e) Any responsible official who disagrees with the calculation or the applicability of the fee may petition the Tennessee Air Pollution Control Board (Board) for a hearing. In order to perfect a hearing, a petition for a hearing together with the total amount of the fee due must be received by the Technical Secretary of the Board not later than fifteen (15) days after the due date. Such hearing shall be in accordance with contested case provisions set forth in Title 4, Chapter 5, T.C.A. If the annual emission fee paid was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the emission fee was paid.
- (f) If a responsible official requests an operating permit that is later determined by the Division to be subject to the construction permit rule, the permit application submittal shall not be subject to the time lines in this rule until complete construction permit applications are submitted.
- (g) Any responsible official impacted by the decision in subparagraph (f) of this paragraph who disagrees with such decision may petition the Tennessee Air Pollution Control

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Board for a hearing. The hearing shall be in accordance with contested case provisions as set forth in Title 4, Chapter 5, T.C.A. §§ 4-5-301 et seq.

- (h) In the event a fee is paid for a construction permit and it is later determined that only an operating permit is needed, fifty percent (50%) of the fee will be credited toward the annual emission fee for the source and the other fifty percent (50%) forfeited for the permit review.
 - (i) Where more than one (1) allowable emission limit is applicable to a regulated pollutant, the allowable emissions for the regulated pollutants shall not be double counted.
1. Major sources subject to the provisions of paragraph 1200-03-26-.02(9) shall apportion their emissions as follows to ensure that their fees are not double counted.
- (i) Sources that are subject to federally promulgated hazardous air pollutant standards that can be imposed under Chapter 1200-03-11 or Chapter 1200-03-31 will place such regulated emissions in the specific hazardous air pollutant under regulation. If the pollutant is also in the family of volatile organic compounds or the family of particulates, the pollutant shall not be placed in that respective family category.
 - (ii) A miscellaneous category of hazardous air pollutants shall be used for hazardous air pollutants listed at part 1200-03-26-.02(2)(i)12 that do not have an allowable emission standard. A pollutant placed in this category shall not be subject to being placed in any other category such as volatile organic compounds or particulates.
 - (iii) Each individual hazardous air pollutant and the miscellaneous category of hazardous air pollutants is subject to the 4,000 ton cap provisions of subparagraph 1200-03-26-.02(2)(i).
 - (iv) Major sources that wish to pay annual emission fees for PM10 on an allowable emission basis may do so if they have a specific PM10 allowable emission standard. If a major source has a total particulate emission standard, but wishes to pay annual emission fees on an actual PM 10 emission basis, it may do so if the PM10 actual emission levels are proven to the satisfaction of the Technical Secretary. The method to demonstrate the actual PM10 emission levels must be made as part of the source's major source operating permit in advance in order to exercise this option. The PM10 emissions reported under these options shall not be subject to fees under the family of particulate emissions. The 4,000 ton cap provisions of subparagraph 1200-03-26-.02(2)(i) shall also apply to PM10 emissions.
- (j) No construction fee, annual emission fee, or permit review fee under paragraph (1) of this rule shall be imposed for review of notices of intent for coverage under a general permit, authorization under a permit-by-rule, or issuance of the notice of coverage or authorization.

(4) COMPLETE APPLICATIONS

- (a) A construction permit application is not considered complete unless the application filing/processing fee has been paid in full. The application filing/processing fee is not refundable, except as provided in paragraph (5)(f) of this rule. Any overpayment of the

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application filing/processing fee is applied to the annual emission fee as a credit. The effective date of this provision is October 24, 1991.

- (b) For the purposes of determining whether or not the Division has acted in the time frame established to process permit applications set forth in paragraph (5), the evaluation period shall not begin until a complete application has been filed in the Division of Air Pollution Control's Nashville office.
- (c) The Division shall denote the date that all applications for construction permits are received in its Nashville office. Applications received after 4:30 p.m. local time will be stamped as being received the next working day.
- (d) Upon receipt of a construction permit application, the Division must examine it to insure that it is complete and advise the applicant in writing of its findings via certified mail. Thirty (30) days will be allowed for the review. The thirty (30) days completeness evaluation time period is extended to ninety (90) days for minor and conditional major sources of the nonattainment pollutant located within the boundary of a nonattainment area so designated by the Board and/or the United States Environmental Protection Agency. [Note: For ozone nonattainment the pollutant is Volatile Organic Compounds (VOC) and/or oxides of nitrogen.]
 - 1. If an application for a construction permit is determined to be incomplete, the Division must notify the applicant in writing via certified mail of the finding with a brief explanation of the deficiencies. The application filing/processing fee shall be retained by the Division.
 - 2. After receiving notice from the Division that the application was incomplete, the applicant shall have one hundred eighty (180) calendar days to correct the deficiencies. If properly corrected, the application will be processed and no additional fee is required. The permit will then be granted or denied in accordance with Division Rules. If the deficiencies are not corrected within the one hundred eighty (180) day correction period, the fee will be forfeited in its entirety to the Division and the Division will officially deny the permit based on the incomplete permit application. If the applicant re-applies, a new application/processing fee must be paid in full along with the re-application.
 - 3. It is the express intent of the Board that the one hundred eighty (180) day permit application correction period is not to be construed by an applicant as permission to construct or modify a source without the permit required by Division Rules.
 - 4. Upon receipt of a corrected application revised pursuant to part 1., 2., or 3. of this subparagraph, the Division shall re-evaluate the application and notify the applicant of its finding as to whether or not the application is considered to be complete. If the application is still deemed incomplete the source has the remainder of the initial one hundred eighty (180) day period to correct the deficiencies or forfeit the fee in its entirety. Unless a determination that a corrected application is not complete is made by the Division and communicated to the applicant via certified mail within thirty (30) days of receipt, the corrected application shall be deemed to be complete for the purpose of starting the Division's permit processing deadline schedule. However, if additional information is still needed to process the permit, the applicant has a duty to furnish said information or face denial of the permit.
- (e) Revisions to a construction permit application to reflect changes in the design of the source or the materials to be processed therein will be accepted by the Division during the permit processing period. However, the deadline for evaluation as to issuance of a

(Rule 1200-03-26-.02, continued)

permit or denial of the request will restart upon each and every significant revision as though it were an entirely new permit.

(5) CONSTRUCTION FEES.

- (a) On and after October 24, 1991, a responsible official applying for the construction permit [i.e. construction as defined in rule 1200-03-26-.02(2)(j)] required by rule 1200-03-09-.01 must pay a construction permit application filing/processing fee as set forth in subparagraph (5)(g) Schedule A, of this rule unless they are exempted from construction permit fees pursuant to subparagraph 1200-03-26-.02(9)(a). The fee determined from Schedule A shall be calculated based on increases in emissions of regulated pollutants.
- (b) With the exception of changes received during the initial construction permit evaluation period (i.e. prior to the certified letter denoting application completeness), all revisions under subparagraph (4)(e) of this rule which result in an increase in allowable emissions sought by the applicant or an increase in actual emissions declared in the original application for a permit shall be subject to a fee equal to one-half of the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500. This fee is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.
- (c) On and after October 24, 1991 a responsible official applying to make a change to a source such that a new construction permit is required, must pay a permit processing fee equal to one-half the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500. This fee is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.
- (d) The Division must consider all applications for construction that are received from a source in the Division's Nashville office on the same date as a source submittal. The source submittal is subject to the applicable permit filing/processing fee.
- (e) The Division must make a decision to issue or deny a request for a construction permit and notify the applicant of that decision in accordance with the following time lines:
 - 1. Major Source reviews must be completed in one hundred eighty (180) days, from receipt of a complete application unless a longer time period is agreed to in writing by the applicant.
 - 2. Minor and Conditional Major Source reviews must be completed within one hundred fifteen (115) days from receipt of a complete application.
- (f) In the event that the Division fails to process the construction permit application within the time lines established in subparagraph (e) of this paragraph, the Division will refund the permit filing/processing fee to the applicant in full. The refund will be made within thirty (30) days following the date that the deadline for a decision on that particular permit application was established. For refunds in excess of \$1,000, additional time to permit review and approval of the refund by the Tennessee Attorney General's Office shall be allowed.
- (g) The appropriate permit filing/processing fee shall be determined by the applicant from the following schedule:

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SCHEDULE A - CONSTRUCTION PERMIT FEES

Anticipated Maximum Emission Rate	(Filing/Processing) Permit Fee
Less Than 10 Tons/Year	\$ 100.00
10 to < 100 Tons/Year	\$ 500.00
100 to < 250 Tons/Year	\$1,000.00
250 to < 500 Tons/Year	\$2,000.00
500 to < 1,000 Tons/Year	\$3,000.00
1,000 to < 5,000 Tons/Year	\$4,000.00
5,000 to Greater Tons/Year	\$5,000.00

(6) ANNUAL EMISSION FEES FOR MINOR AND CONDITIONAL MAJOR SOURCES AND PERMIT REVIEW FEES FOR CONDITIONAL MAJOR SOURCES.

- (a) A responsible official of a minor source and/or a conditional major source must pay an annual emission fee to the Division. The annual emission fee shall be based on the source's allowable emissions as defined in subparagraph 1200-03-26-.02(2)(d).
- (b)
 1. The minor source and conditional major source annual emission fee must be calculated as the sum of allowable emissions of all regulated pollutants at a source. Upon mutual agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive requirement must be specified on the permit, and must include the method used to determine compliance with the limitation. The documentation procedure to be followed by the source owner or operator must also be included to insure that the limit is not exceeded. Exceedances of the mutual agreement limit will be considered by the Board as circumvention of the required annual emissions fee and a matter in which enforcement action must be pursued.
 2. To reduce the amount of the fee as provided in part 1 of this subparagraph, the responsible official must submit a letter to the Technical Secretary requesting reduced allowable emissions and providing the method or methods that will be used to ensure compliance with the requested limit or limits. This request must be received at least ninety (90) days prior to the applicable due date of the annual emission fee. Any request received after that deadline may only apply to the fee for the following year and not for the year being invoiced.
- (c) Beginning December 1, 1991 all minor and conditional major source annual emission fees are due and payable to the Division in full according to Schedule I of this subparagraph. The county that a source is located in determines when the minor source annual emission fee is due. If a source is located on contiguous property in more than one county, the county appearing earliest in the calendar year shall be used to determine the due date of the annual emission fee. The fee must be paid to the Division in full by the first (1st) day of the month that the fee is due. The Technical Secretary may extend this due date an additional ninety (90) days where he finds that the minor source owner or operator's fee notice was mailed by the Division to an incorrect mailing address.

SCHEDULE I

Month the Annual Emissions Fee is Due (Accounting Period)

(Rule 1200-03-26-.02, continued)

Counties in the Monthly Grouping

January	Anderson, Bedford, Benton, Bledsoe, Blount, Bradley and Campbell
February	Cannon, Carroll, Carter, Cheatham, Chester, Claiborne, Clay and Cocke
March	Coffee, Crockett, Cumberland, Davidson, Decatur, DeKalb, Dickson, Dyer and Fayette
April	Fentress, Franklin, Gibson, Giles, Grainger, Greene and Grundy
May	Hamblen, Hamilton, Hancock, Hardeman, Hardin, Hawkins, Haywood and Henderson
June	Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Johnson, Knox, Lake, Lauderdale, Lawrence and Lewis
July	Lincoln, Loudon, McMinn, McNairy, Macon and Madison
August	Marion, Marshall, Maury, Meigs, Monroe, Montgomery, Moore and Morgan
September	Obion, Overton, Perry, Pickett, Polk, Putnam and Rhea
October	Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, and Shelby
November	Smith, Stewart, Sullivan, Sumner, Tipton, Trousdale, Unicoi and Union
December	Van Buren, Warren, Washington, Wayne, Weakley, White, Williamson and Wilson

- (d) A newly constructed minor and conditional major source beginning operation subsequent to the annual accounting period for the county in which it is located shall not be required to pay an annual emission fee for the remainder of the annual accounting period. A minor source company ceasing operations during the annual accounting period will not receive a refund for annual emission fees paid.
- (e) The appropriate annual emissions fee for minor and conditional major sources in operation on or after July 1, 1993, shall be calculated at an emission fee rate of \$18.75 per ton of allowable emissions of regulated pollutants. Sources with allowable emissions less than 10 (ten) tons will not be subject to this fee, provided that such source has not taken a limitation on their permit that would render them a conditional major or synthetic minor source.
- (f) Deleted.
- (g) Deleted.
- (h) Deleted.
- (i) The responsible official must pay an annual emission fee as per subparagraph (e) of this paragraph. The annual emission fee will be calculated on no more than 4,000 tons per year of each regulated pollutant. An annual emission fee will not be charged for

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carbon monoxide or for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.

- (j) Deleted.
- (k) Beginning one (1) month after the effective date of the rule amendment that added this subparagraph (k), conditional major sources must pay a permit review fee in accordance with the table below in addition to the minor source annual emission fees specified in subparagraph (6)(e) of this rule. This fee is due and payable to the Division according to Schedule 1 found in subparagraph (6)(c) of this rule. When determining the allowable tons per year, carbon monoxide emissions shall be included.

Allowable Tons Per Year	Review Fee
0-50	\$250
50.1-100 TPY	\$500
100.1-250 TPY	\$1,000
250.1 and up	\$2,000

(7) PAYMENT OF FEES.

- (a) All fees regulated by this chapter shall be payable to the Division of Air Pollution Control.
- (b) Fees not paid, late fees, and returned checks are subject to the provisions of paragraph 1200-03-26-.02(8).
- (c) Returned checks for any reason (i.e. insufficient funds, account closed, etc.) are considered failure to pay until such time collected funds are forwarded to the Division. Returned checks are subjected to an additional \$20.00 handling charge.
- (d) Annual emission fee payments and permit review fee payments shall be clearly identified with the "Emission Source Reference Number" specified in the source's permit(s) or by an alternative method proposed by the source and agreed to by the Technical Secretary. Major sources paying fees on more than one SIC code at their facility shall denote the SIC code on their check for the account upon which they are paying. Delivery of the payment shall be to the location prescribed by the Technical Secretary.
- (e) When a fee overpayment has been made as a result of an error by the source, an owner or operator may seek a credit or refund for such fee overpayment within One year from the date on which the Division of Air Pollution Control received payment of the fee.

(8) LATE FEES - FAILURE TO PAY.

- (a) The Technical Secretary will not issue any certificate, permit or other official document subject to a fee in this chapter until the required fee has been paid in full to the Division.
- (b) If any part of any fee imposed under this Rule 1200-03-26-.02 not paid within fifteen (15) days of the due date, a late payment penalty of five percent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of five percent (5%) of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within fifteen (15) days after the due date, shall bear interest at the maximum lawful rate from the due date to the date paid, compounded monthly. The Division will consult with the

(Rule 1200-03-26-.02, continued)

State of Tennessee's Department of Finance and Administration to determine the appropriate rate of interest.

- (c) It is the express intent of the Tennessee Air Pollution Control Board that late payment fees or interest accrued on an unpaid fee are not to be viewed by the Technical Secretary as a mitigating factor in calculating a civil penalty for construction or operating without the permits required by rule 1200-03-09-.01 and/or rule 1200-03-09-.02.
- (9) ANNUAL EMISSION FEES FOR MAJOR SOURCES AND SOURCES SUBJECT TO PARAGRAPH 11 OF RULE 1200-03-09-.02.
- (a)
 - 1. A responsible official of a major source or a source subject to paragraph (11) of Rule 1200-03-09-.02 (hereinafter, "Paragraph 11 source") must pay an annual emission fee to the Division. A major source or Paragraph 11 source is not subject to the minor and conditional major source annual emission fees of paragraph (6) of this rule on or after July 1, 1994. Once a major stationary source or Paragraph 11 source begins to pay major source annual emission fees pursuant to this paragraph (9), it will not be subject to the construction permit fees of paragraph (5) of this rule for any additional construction occurring at the source.
 - 2. Effective January 1, 2018, the following shall apply:
 - (i) Sources choosing to pay annual emission fees on an allowable emissions basis pursuant to subparagraph (b) of this paragraph shall pay one hundred percent (100%) of the fee due pursuant to subparagraph (d) of this paragraph:
 - (I) No later than April 1 of the year immediately following the annual accounting period for which the fee is due for sources paying on a calendar year basis pursuant to subparagraph (b) of this paragraph; or
 - (II) No later than April 1 of the current fiscal year for sources paying on a fiscal year basis pursuant to subparagraph (b) of this paragraph.
 - (ii) Sources choosing to pay annual emission fees on an actual emissions basis or a combination of actual and allowable emissions basis and on a calendar year basis pursuant to subparagraph (b) of this paragraph shall pay one hundred percent (100%) of the fee due pursuant to subparagraph (d) of this paragraph no later than April 1 of the year immediately following the annual accounting period for which the fee is due, except as allowed by part (g)3. of this paragraph.
 - (iii) Sources choosing to pay annual emission fees on an actual emissions basis or a combination of actual and allowable emissions basis and on a fiscal year basis pursuant to subparagraph (b) of this paragraph shall pay an estimated sixty-five percent (65%) of the fee due pursuant to subparagraph (d) of this paragraph no later than April 1 of the current fiscal year. The remainder of the annual emission fee is due July 1 of each year, except as allowed by part (g)3. of this paragraph.
 - 1. On or before December 31 of the annual accounting period, the responsible official must submit to the Division in writing the responsible official's determination to pay the annual emission fee based on:

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- (i) Either a calendar year or state fiscal year; and
 - (ii) Actual emissions, allowable emissions, or a mixture of actual and allowable emissions of regulated pollutants.
 - 2. If the responsible official does not declare a fee payment choice as provided in subparts 1.(i) or (ii) of this subparagraph, then the basis of the annual fee payment shall be the same as the responsible official's most recent choice of fee payment, or, if no such previous choice was made, the basis of the annual fee payment shall be that specified in the source's current major source operating permit.
 - 3. If the responsible official wishes to restructure allowable emissions for a major source or Paragraph 11 source for the purpose of lowering the annual emission fee, then an application must be filed at least ninety (90) days prior to December 31 of the annual accounting period as provided in subparagraph (g) of this paragraph.
 - 4. The responsible official of a newly constructed major source, Paragraph 11 source, or minor source modifying its operation such that the source becomes a major source or Paragraph 11 source shall pay an initial annual emission fee based on a calendar year and allowable emissions for the fractional remainder of the calendar year commencing upon the source's start-up.
 - 5. For purposes of the payment of annual emission fees due July 1, 2016, parts 1 and 2 of this subparagraph shall not apply. Annual emission fees due July 1, 2016, shall be based on the state fiscal year and the annual fee basis (actual emissions, allowable emissions, or a mixture) specified in a source's current major source operating permit. If a source does not have an effective major source operating permit on July 1, 2016, then the source's responsible official shall pay the annual emission fee based on the state fiscal year and allowable emissions.
- (c) Reserved.
- (d) 1. Notwithstanding the emission fee rates established by part 2 of this subparagraph, a responsible official of any source subject to this paragraph (9) shall pay an annual base emission fee of \$4,000. This base emission fee shall be paid in addition to the annual emission fee established by part 2 of this subparagraph, but shall be counted toward the applicable minimum fee set forth in subpart 2.(ii) of this subparagraph.
 - 2.
 - (i) For purposes of this part, an electric utility generating unit (EGU) means any steam electric generating unit or stationary combustion turbine that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected EGU.
 - (ii) Notwithstanding the annual emission fee rates established by subpart (iii) of this part, the annual emission fee required to be paid by a responsible official of any source subject to this paragraph (9) shall be no less than:

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- (I) \$5,500 for sources (once in always in or OIAI sources) subject to this paragraph (9) solely due to the May 16, 1995 EPA memorandum entitled, "Potential to Emit for MACT Standards—Guidance on Timing Issues," from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), to EPA Regional Air Division Directors, provided that the source has permitted allowable emissions below the major source thresholds found in part 14. of subparagraph (b) of paragraph (11) of Rule 1200-03-09-.02. If the source's permitted allowable emissions are not below those major source thresholds as of October 31 of the annual accounting period for which fees are due under this part, then item (II) of this subpart applies; and
 - (II) \$7,500 for all other sources subject to this paragraph (9).
 - (iii) The emission fee rates applied to calculate the annual emission fee assessed pursuant to subparagraph (a) of this paragraph shall be as follows:
 - (I) Fee based on actual emissions: \$53.50 per ton for non-EGU sources and \$75.00 per ton for EGU sources; and
 - (II) Fee based on allowable emissions: \$33.50 per ton for non-EGU sources and \$47.00 per ton for EGU sources.
 - (iv) The emission fee rates enumerated in subpart (iii) of this part must be supported by the Division's annual workload analysis that is approved by the Board.
3. The emission fee rates shall remain in effect until the effective date of an amendment to part 2 of this subparagraph. Any revision to the emission fee rates must result in the collection of sufficient fee revenue to fund the activities identified in subparagraph (1)(c) of this rule and must be supported by the Division's annual workload analysis that is approved by the Board.
- (e)
 - 1. An emission cap of 4,000 tons per year per regulated pollutant per major source SIC code shall apply to actual or allowable based emission fees. A major source annual emission fee will not be charged for emissions in excess of the cap(s) or for carbon monoxide.
 - 2. No annual emission fee under this paragraph (9) will be charged for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.
 - (f) In the case where a source is shut down such that it has operated only during a portion of the annual accounting period and the source's permits are forfeited to the Technical Secretary, the appropriate fee shall be calculated on a prorated basis over the period of time that the source was operated in the annual accounting period. The responsible official of a major source or Paragraph 11 source that is shutdown, but wishes to retain its permits, shall pay a maintenance fee equivalent to 40% of the fee that would be charged had the responsible official determined to base the annual emission fee on allowable emissions. If the responsible official chooses this option in the midst of an annual accounting period, then the fee will be prorated according to the number of months that the source was in the maintenance fee status. The responsible official shall notify the Division no later than December 31 of the annual accounting period so that

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the Division will have sufficient time to adjust billing records for the maintenance fee status.

- (g) Responsible officials required to pay the major source or Paragraph 11 source annual emission fee pursuant to subparagraph (a) of this paragraph must conform to the following requirements with respect to fee payments:
 - 1. (i) If a responsible official paying the annual emission fee based on allowable emissions wishes to restructure the allowable emissions of a source subject to paragraph (11) of Rule 1200-03-09-.02 for the purpose of lowering the annual emission fee, then upon mutual agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive regulatory requirement, the method used to determine compliance with the limitation, and the documentation procedure to be followed by the major source or Paragraph 11 source to ensure that the limit is not exceeded must be included in the application and specified in a permit through either the permit modification processes of paragraph (11) of Rule 1200-03-09-.02, or the construction permit processes of Rule 1200-03-09-.01, or both. The more restrictive requirement shall be effective for purposes of lowering the annual emission fee upon agreement by both the responsible official and the Technical Secretary and for all other purposes shall be effective upon issuance of the permit, modification, or both.
 - (ii) To reduce the amount of the fee as provided in subpart (i) of this part, the responsible official must file a complete permit modification or construction permit application with the Division at least ninety (90) days prior to December 31 of the annual accounting period.
- 2. The responsible official shall file an analysis of actual emissions, allowable emissions, or both actual and allowable emissions, whichever is appropriate due to the basis of the annual emission fee payment, with the Technical Secretary on or before the date the fee is due pursuant to subparagraph (a) of this paragraph. The analysis shall summarize the emissions of all regulated pollutants at the air contaminant sources of the major source or Paragraph 11 source facility and shall be used to calculate the amount of the annual emission fee owed pursuant to subparagraph (a) of this paragraph.
 - (i) An annual emission fee based on both actual emissions and allowable emissions shall be calculated utilizing the 4,000 ton per year cap specified in subparagraph (2)(i) of this rule. In determining the tonnages to be applied toward the regulated pollutant 4,000 ton cap in a mixed base fee, the responsible official shall first calculate the actual emission-based fees for a regulated pollutant and apply that tonnage toward the regulated pollutant's cap. The remaining tonnage available in the 4,000 ton category of a regulated pollutant shall be subject to allowable emission based fee calculations. Once the 4,000 ton per year cap has been reached for a regulated pollutant, no additional fee for that pollutant shall be required.
 - (ii) If the responsible official chooses to base the annual emission fee on actual emissions, then the responsible official must prove the magnitude of the source's emissions to the satisfaction of the Technical Secretary.
- 3. (i) Responsible officials choosing to pay the annual emission fee based on actual emissions or a mixture of actual and allowable emissions may

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request an extension of time for filing the emissions analysis with the Technical Secretary. The extension may be granted by the Technical Secretary for up to ninety (90) days after the fee is due pursuant to subparagraph (a) of this paragraph. The request for extension must be received by the Division no later than 4:30 p.m. on April 1, or the request for extension shall be denied. The request for extension to file must state the reason for the request and provide an adequate explanation. An estimated annual emission fee payment of no less than sixty-five percent (65%) of the annual emission fee must accompany the request for extension to avoid penalties and interest on the underpayment of the annual emission fee. The remaining balance due must accompany the emission analysis. If there has been an overpayment, the responsible official may request a refund in writing to the Division or the amount of the overpayment may be applied as a credit toward the next annual emission fee.

- (ii) A responsible official choosing to pay the annual emission fee based on allowable emissions is not eligible for the extension of time authorized by subpart (i) of this part.

- (h) Reserved.

- (i) Reserved.

Authority: T.C.A. §§ 4-5-201, et seq.; 4-5-202, et seq.; 68-201-101, et seq.; and 68-201-105, et seq. **Administrative History:** Original rule filed June 1, 1990; effective July 16, 1990. Repeal and new rule filed July 5, 1994; effective September 18, 1994. Amendment filed March 13, 1997; effective May 27, 1997. Amendment filed March 23, 1998; effective June 6, 1998. Amendment filed March 26, 1999; effective June 9, 1999. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed December 21, 2000; effective March 6, 2001. Amendment filed January 14, 2002; effective March 30, 2002. Amendment filed May 23, 2003; effective August 6, 2003. Amendment filed May 17, 2004; effective July 31, 2004. Amendment filed March 29, 2005; effective June 12, 2005. Amendment filed April 13, 2006; effective June 27, 2006. Amendment filed June 30, 2006; effective October 27, 2006. Amendment filed October 17, 2006; effective December 31, 2006. Amendment filed April 16, 2007; effective June 30, 2007. Amendment filed April 16, 2008; effective June 30, 2008. Amendment filed February 25, 2009; effective May 11, 2009. Amendment filed July 13, 2009; effective October 11, 2009. Amendment filed March 30, 2010; effective June 28, 2010. Amendments filed November 1, 2010; effective January 30, 2011. On January 24, 2011, the Government Operations Committee voted to stay the amendments for 60 days; new effective date March 31, 2011. Amendment filed November 30, 2011; effective February 28, 2011. On January 24, 2011, the Government Operations Committee voted to stay the amendment for 60 days; new effective date April 30, 2011. Amendment filed March 16, 2011; effective June 14, 2011. Amendments filed February 22, 2012; effective May 22, 2012. Amendment filed January 8, 2013; effective April 8, 2013. However the Government Operations Committee filed a 25-day stay of the rule's effective date; new effective date May 3, 2013. Amendment filed January 8, 2014; effective April 8, 2014. Amendments filed January 6, 2016; effective April 5, 2016. Amendments filed March 7, 2016; effective June 5, 2016. Amendments filed May 17, 2017; effective August 15, 2017. Amendments filed October 10, 2017; effective January 8, 2018. Amendments filed January 11, 2018; effective April 11, 2018.

1200-03-26-.03 REPEALED.

Authority: T.C.A. §§ 4-5-201, et seq.; 68-1-1301; and 68-25-105. **Administrative History:** Original rule filed March 5, 1993; effective April 19, 1993. Amendment filed March 18, 1994; effective June 1, 1994. Amendment filed November 4, 1996; effective January 18, 1997. Repeal filed June 26, 2001; effective September 7, 2001.