

**Department of State  
Division of Publications**

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Sequence Number: 03-02-21  
Rule ID(s): 9468  
File Date: 3/2/2021  
Effective Date: 5/31/2021

## 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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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 have 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 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	X				
<b>Dr. John Benitez</b> Licensed Physician with experience in health effects of air pollutants				X	
<b>Dr. Chunrong Jia</b> Environmental Interests	X				
<b>Stephen Gossett</b> Working for Industry with technical experience	X				
<b>Dr. Shawn A. Hawkins</b> Working in field related to Agriculture or Conservation	X				
<b>Richard Holland</b> Working for Industry with technical experience	X				
<b>Caitlin Roberts Jennings</b> Small Generator of Air Pollution representing Automotive Interests	X				
<b>Ken Moore</b> Working in Municipal Government	X				
<b>Dr. Joshua Fu</b> Involved with Institution of Higher Learning on air pollution evaluation and control	X				
<b>Mike Haverstick</b> Working in management in Private Manufacturing	X				
<b>Amy Spann, PE</b> Registered Professional Engineer				X	
<b>Greer Tidwell, Jr.</b> Conservation Interest				X	
<b>Larry Waters</b> County Mayor	X				
<b>Jimmy West</b> Commissioner's Designee, Dept. of Economic and Community Development	X				

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: November 17, 2020

Signature: *Michelle W. Owenby*

Name of Officer: Michelle W. Owenby

Title of Officer: Technical Secretary

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*  
Herbert H. Slatery III  
Attorney General and Reporter  
2/26/2021  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/2/2021

Effective on: 5/31/2021

*Tre Hargett*  
Tre Hargett  
Secretary of State

RECEIVED

MAR 02 2021

Secretary of State  
Division of Publications

## **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 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 by amending paragraph (6) of Rule 1200-03-14-.01 as follows:

- Adding a data completeness requirement for the two years of ambient data collected prior to termination of monitoring.
- Adding 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;

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 rulemaking 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 ("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 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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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~~ 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 ~~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 have~~ 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 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:

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

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: November 17, 2020

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

Name of Officer: Michelle W. Owenby

Title of Officer: Technical Secretary

---

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 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 by amending paragraph (6) of Rule 1200-03-14-.01 as follows:

- Adding a data completeness requirement for the two years of ambient data collected prior to termination of monitoring.
- Adding 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  
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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;

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 rulemaking 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 ("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 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.