

Department of State
Division of Publications
312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

For Department of State Use Only

Sequence Number: 06-26-23
Notice ID(s): 3668-3669
File Date: 6/20/2023

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Air Pollution Control Board
Division:	Air Pollution Control
Contact Person:	James P. Johnston
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 15 th Floor Nashville, TN 37243
Phone:	(615) 253-7319
Email:	james.johnston@tn.gov

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

ADA Contact:	ADA Coordinator
Address:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	615-532-0200 Hearing-impaired callers may use the TN Relay Service 1-800-848-0298
Email:	kathryn.reitz@tn.gov

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

Address 1:	Conference Room 15A, 15 th Floor
Address 2:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue
City:	Nashville, Tennessee
Zip:	37243
Hearing Date:	08/11/2023
Hearing Time:	1:00 p.m. <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

Alternate Hearing Option

Method 1:	<p>You may also join electronically.</p> <p>Join by going to this link: https://tn.webex.com/tn/j.php?MTID=mc0454f50ceafcd4634e6a88e1594d40</p> <p>Meeting number (access code): 2310 137 3651 Meeting password: Mb9wdyBmv43</p> <p>Join by video system Dial 23101373651@tn.webex.com You can also dial 173.243.2.68 and enter your meeting number.</p>
------------------	---

Method 2:	Join by phone 1-415-655-0001 Access code: 231 013 73651 Global call-in numbers are available online at: Link for Global Call-in Numbers
------------------	---

Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Lida Warden at (615) 532-0554 for more information.

The Air Pollution Control Board (Board) and the Division of Air Pollution Control (Division) are charged with maintaining the purity of the air resources of the state consistent with the protection of normal health, general welfare and physical property of the people, maximum employment, and the full industrial development of the state. To accomplish these objectives, the Division must issue construction and operating permits to certain sources of air pollution. In doing so, the Division must assess permit application fees and annual emission fees from regulated sources to cover the costs of the program. The Board is proposing rule amendments to modify the application and operating permit fee structure for Title V sources, establish construction and annual fees for general permits, clarify certain provisions of the fee rule, streamline provisions for Title V sources that determine fees based on fiscal year actual emissions, revise fees for construction permit applications to modify existing permitted sources, and move and update the definition of “hazardous air pollutants” to Chapter 1200-03-02. The Division is also taking comments on two different alternatives to the proposed amendments:

- The first alternative proposal includes changes to three different provisions within the proposed amendments:
 - In lieu of proposed subpart (5)(a)2(ii) of Rule 1200-03-26-.02:
 - (ii) A responsible official of a major source or a source subject to paragraph (11) of this rule (hereinafter, “Paragraph 11 source”) must pay construction permit application/filing fees as set forth in subparagraph (g), Schedule B of this paragraph.
 - In lieu of subpart (5)(b)2(ii) of Rule 1200-03-26-.02:
 - (ii) For Paragraph 11 sources, one-half of the Schedule B fee corresponding to the applicant's anticipated maximum emission rate.
 - Adding Schedule B – Construction Permit Fees for Paragraph 11 Sources to subparagraph (5)(g) of Rule 1200-03-26-.02 to read as follows, if needed:

SCHEDULE B CONSTRUCTION PERMIT FEES FOR PARAGRAPH 11 SOURCES

Anticipated Maximum Emission Rate	(Filing/Processing) Permit Fee
Less Than 100 Tons/Year	\$4,000
100 to less than 250 Tons/Year	\$8,000
250 to less than 500 Tons/Year	\$15,000
500 to less than 1,000 Tons/Year	\$30,000
1,000 to less than 5,000 Tons/Year	\$40,000
5,000 and Greater Tons/Year	\$50,000

- The second alternative proposal is a change to the following provision within the proposed amendments:
 - In lieu of proposed subpart (9)(d)1(iii) of Rule 1200-03-26-.02:
 - (iii) The base fee is determined in accordance with the table below.

Number of federal air quality standards	Base Fee
0 to 1	\$15,000
2 to 4	\$20,000
5 to 9	\$40,000
10 and up	\$75,000

There will be a public hearing before the Technical Secretary of the Board regarding the proposed rule amendments. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated sections 4-5-201 to -231 and will take place in Conference Room 15A of the William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243.

Any individuals with disabilities who wish to participate in these proceedings or to review these filings should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten days prior to August 11, 2023, or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 22nd Floor, Nashville, Tennessee 37243, (615) 532-0200. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

Materials concerning the proposed actions will be available at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/ppo-air.html>.

If you have any questions about this proposed rulemaking, please contact James P. Johnston at (615) 253-7319. For complete copies of the text of the notice, please contact James P. Johnston, Department of Environment and Conservation, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue 15th Floor, Nashville, TN 37243 or via e-mail at James.Johnston@tn.gov.

All persons interested in the air quality of the state of Tennessee are urged to attend and will be afforded the opportunity to present testimony to the hearing officer regarding the promulgation of amendments to the Tennessee Air Pollution Control Regulations. Any person desiring to present lengthy comments should be prepared at the hearing to offer a written statement to be incorporated into the record. Written statements not presented at the hearings will only be considered part of the records if received by 4:30 p.m. CDT on August 11, 2023, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, William R. Snodgrass Tennessee Tower, 312 Rosa L. Parks Avenue, 15th Floor, Nashville, Tennessee 37243. Additionally, comments may be submitted via attachments through electronic mail until the close of business on August 11, 2023. Comments may be submitted via e-mail to Air.Pollution.Control@tn.gov.

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1200-03-02	Definitions
Rule Number	Rule Title
1200-03-02-.01	General Definitions

Chapter Number	Chapter Title
1200-03-26	Administrative Fees Schedule
Rule Number	Rule Title
1200-03-26-.02	Construction and Annual Fees

Place substance of rules and other info here. 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 1200-03-02
Definitions

Amendments

Paragraph (1) of Rule 1200-03-02-.01 General Definitions is amended by adding a new definition (mmmm) placed in numeric order to read as follows:

(mmmm) "Hazardous air pollutant" or "HAP" means the air contaminants listed in this subparagraph:

CAS No.	Chemical name
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
	Benidine
98077	Benzotrachloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl) ether
75252	Bromoform
106945	1-Bromopropane
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
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	Ethyl 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)
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
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

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 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 an average diameter of one micrometer or less.

⁴ Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

⁵ A type of atom that 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).

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

Chapter 1200-03-26
Administrative Fees Schedule

Amendments

Part 12 of subparagraph (i) of paragraph (2) of Rule 1200-03-26-.02 is amended by deleting it in its entirety and substituting instead the following:

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

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (k) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (k) Reserved.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by adding three new subparagraphs (t), (u), and (v) to read as follows:

- (t) "Permit amendment" is a permit revision that:
1. Corrects typographical errors;
 2. Identifies a change in the name, address, or phone number of any person identified in the permit, or makes a similar minor administrative change at the source;
 3. Requires more frequent monitoring or reporting by the permittee;
 4. Allows for a change of ownership or operational control of a source where the Technical Secretary determines that no other change in the permit is necessary, provided that a transfer of ownership permit application is filed consistent with the provisions of paragraph (6) of Rule 1200-03-09-.03;
 5. Incorporates into a true minor source or conditional major source operating permit the requirements of a construction permit issued pursuant to Rule 1200-03-09-.01;
 6. Extends the expiration date of a construction permit;
 7. Changes the name of a source or facility;
 8. Changes a deadline established in a permit; or
 9. Adds or revises a monitoring parameter.
- (u) "Anticipated maximum emission rate" (AMER) means the maximum rate of actual emissions, in tons per year, from all regulated air pollutants, as defined in part (11)(b)19 of Rule 1200-03-09-.02, emitted from all sources listed in a construction permit application, excluding sources that are not required to obtain a permit in accordance with Rule 1200-03-09-.04. Except as specified below, the responsible official shall calculate AMER based on each source operating at its maximum actual hourly emission rate, as listed in the construction permit application, for 8,760 hours per year.

$$AMER = \sum_{i=1}^m \sum_{j=1}^n E_{i,j} \times h_j$$

Where:

m = number of pollutants emitted by sources included in the application

n = total number of sources included in the application, excluding sources that are exempt from permitting in accordance with Rule 1200-03-09-.04
E = emission rate in pounds per hour
h = hours per year (8,760 except as specified below)

For applications that do not list a maximum pound-per-hour emission rate for a particular pollutant or source, the responsible official shall use the potential emissions, in tons per year, as listed in the construction permit application. The responsible official may use a reduced emission rate or hours of operation if the same is limited by federal or state air quality regulation, limited by operational constraints within the process (i.e., a bottleneck), or the responsible official has requested a limitation of the same in the construction permit application. Emission of a greenhouse gas that is a regulated air pollutant solely because the pollutant is a constituent of greenhouse gases shall not be included when calculating AMER. Emission of a hazardous air pollutant that is also a VOC or particulate matter shall be counted only as VOC or particulate matter. When calculating the AMER for particulate matter, the responsible official shall use the highest of the source's PM, PM₁₀, or PM_{2.5} emission rate. For construction permit applications that include the retirement of existing sources or the reduction of emissions from existing sources, the AMER shall not include the emission reductions associated with such retirement or reduction of emissions.

- (v) "Anticipated maximum increase in emissions" means the anticipated maximum emission rate of the existing source following the change minus the anticipated maximum emission rate prior to the change.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (c) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (c) Any source exempted by Rule 1200-03-09-.04 is exempt from the annual emission fee requirements of this chapter, unless emissions from the exempt source are included in a facility-wide emissions limit. However, the emissions from any exempt source must comply with all rules and regulations of the Tennessee Air Pollution Control Board.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (h) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (h) In the event a fee is paid for a construction permit and it is later determined that only an operating permit is needed or the source is insignificant or otherwise exempt from permitting, 100% of the fee will be forfeited for the permit review.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (i) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (i) Where more than one 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 (9) of this rule shall apportion their emissions as follows to ensure that their fees are not double counted.
 - (i) For fee purposes, hazardous air pollutants that are also in the family of volatile organic compounds or the family of particulate matter will be included in their respective family category when determining annual emission fees.
 - (ii) For fee purposes, hazardous air pollutants that are not in the family of volatile organic compounds or the family of particulate matter will be reported separately.
 - (iii) Each individual hazardous air pollutant is subject to the 4,000-ton cap provisions

of subparagraph (2)(i) of this rule.

- (iv) Major sources that wish to pay annual 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 fees on an actual PM₁₀ 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 (2)(i) of this rule shall also apply to PM₁₀ emissions.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (j) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (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 authorization under a permit-by-rule, or issuance of a notice of authorization.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (d) of paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (d) All construction fees required by paragraph (5) of this rule must be paid in full upon submission of the application.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (a) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) Construction Permit and Opt-Out Permit Application Filing/Processing Fees
 - 1. The fee rates of this subparagraph effective on July 1, 2022, continue to apply until July 1, 2024.
 - 2. On and after July 1, 2024, a responsible official applying for the construction permit (i.e., construction as defined in subparagraph (2)(j) of this rule) required by Rule 1200-03-09-.01, or an opt-out permit, must pay a construction permit application filing/processing fee as follows:
 - (i) A responsible official of a minor source or a conditional major source must pay construction permit application fees as set forth in subparagraph (g), Schedule A of this paragraph. The fee determined from subparagraph (g), Schedule A of this paragraph shall be calculated based on the definitions of anticipated maximum emission rate and anticipated maximum increase in emissions, as defined in subparagraphs (2)(u) and (v) of this rule.
 - (ii) A responsible official of a major source or a source subject to paragraph (11) of this rule (hereinafter, "Paragraph 11 source") must pay a construction permit application fee of \$7,000.
 - (iii) Except as specified in subpart (v) of this part, a responsible official applying for a Prevention of Significant Air Quality Deterioration permit as required by paragraph (4) of Rule 1200-03-09-.01 must pay a construction application fee of \$70,000.
 - (iv) Except as specified in subpart (v) of this part, a responsible official applying for a

permit under the provisions of paragraph (5) of Rule 1200-03-09-.01, Growth Policy, must pay a construction application fee of \$70,000.

- (v) A responsible official applying for a plantwide applicability limit (PAL) or renewal of a PAL under the provisions of subparagraph (4)(s) of Rule 1200-03-09-.01 or part (5)(b)10 of Rule 1200-03-09-.01 must pay an application fee of \$10,000 per pollutant.
 - (vi) A responsible official of an existing Paragraph 11 source applying for an operating permit to opt out of being a Paragraph 11 source, as described in subparagraph (11)(a) of Rule 1200-03-09-.02, by limiting the potential to emit such that the potential emissions of all pollutants are below the major source applicability thresholds, as defined in part (11)(b)14 of Rule 1200-03-09-.02, must pay an application fee of \$18,000.
3. On and after July 1, 2024, an applicant for a minor source or a conditional major source applying to make a change to an existing source or permit such that a new construction permit is required must pay a permit application fee as set forth in subparagraph (g), Schedule A of this paragraph. This fee is determined by the anticipated maximum increase in emissions, as defined in subparagraph (2)(v) of this rule, from the anticipated maximum emission rate of the previous construction permit for the source. The fee rates in this part in effect on July 1, 2022, continue to apply until July 1, 2024.
4. On and after July 1, 2024, an owner or operator of a source that submits notice of intent for coverage under a general permit serving as a construction permit shall pay a permit application fee equal to that determined in accordance with the subparagraph (g) of this paragraph, Schedule A fee corresponding to the applicant's anticipated maximum emission rate, unless an alternate construction permit application fee is stipulated in the table below. If Schedule A from subparagraph (g) of this paragraph is used to determine the fee, it shall be determined by the anticipated maximum increase in emissions, as defined in subparagraph (2)(v) of this rule, from the anticipated maximum emission rate of the previous construction permit for the source.

General Permit Category	Construction and Modification Permit Application Fee
Perchloroethylene and Petroleum Solvent Dry Cleaners	\$100
Concrete batch plants	\$100
Portable rock crushers	\$100
Asphalt plants	\$250

5. All application filing/processing fees required by this subparagraph are due upon submission of the permit application.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (b) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (b)
 - 1. The fee rates required by this subparagraph effective July 1, 2022, continue until July 1, 2024.
 - 2. With the exception of changes received during the initial construction permit evaluation period (i.e., prior to the Division letter or email denoting application completeness), all revisions under subparagraph (4)(e) of this rule that 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 the following:
 - (i) For minor sources and conditional major sources, one-half of the Schedule A fee

corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500.

(ii) For Paragraph 11 sources, \$3,500.

3. The fee required by subparts 2(i) and (ii) of this subparagraph is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (c) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

(c) Reserved.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (e) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (e) The Division must make a decision to issue or deny a request for a permit in one of the categories listed in parts 1 through 4 of this subparagraph and notify the applicant of that decision in accordance with the following time-lines:
1. Major source or Paragraph 11 source construction permit reviews must be completed in 180 days, from receipt of a complete application unless a longer period is agreed to in writing by the applicant.
 2. Minor and conditional major source construction permit reviews must be completed within 115 days from receipt of a complete application.
 3. PAL or Renewal PAL reviews must be completed within 18 months from receipt of a complete application.
 4. Operating permit reviews for an existing major source or Paragraph 11 source applying for an operating permit to opt out of being a major source or Paragraph 11 source by limiting the potential to emit such that they are below the major source applicability thresholds must be completed within 18 months from receipt of a complete application.
 5. If a mutual agreement letter required by part (6)(b)1 of this rule or subparagraph (11)(a) of Rule 1200-03-09-.02 has been requested by the Division at least seven days prior to a deadline specified in part 1, 2, 3, or 4 of this subparagraph, but is not received by that deadline, the applicable deadline specified in part 1, 2, 3, or 4 of this subparagraph shall be seven days after receipt of the agreement letter.
 6. If a source is required to have a compliance schedule in their permit in accordance with paragraph (4) of Rule 1200-03-09-.02 arises after an application was deemed complete, the deadlines specified in part 1, 2, 3, or 4 of this subparagraph shall be extended as follows:
 - (i) 21 days after receipt of a compliance schedule from the applicant that is acceptable to the Technical Secretary if the draft permit is not required to have a public comment period.
 - (ii) 60 days after receipt of a compliance schedule from the applicant that is acceptable to the Technical Secretary if the draft permit is subject to an opportunity for public comment, and no public hearing is held.
 - (iii) 60 days after receipt of a compliance schedule from the application that is acceptable to the Technical Secretary if the draft permit is subject to an opportunity

for public comment and a public hearing is announced along with the opportunity for public comment on the draft permit.

- (iv) 90 days after receipt of a compliance schedule from the applicant that is acceptable to the Technical Secretary if the draft permit is subject to an opportunity for public comment, if a public hearing is requested during the public comment period, and the public hearing is held after the close of the public comment period.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (g) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Emission Fees is amended by deleting it in its entirety and substituting instead the following:

- (g) The appropriate permit filing/processing fee shall be determined by the applicant from the following schedules:

**SCHEDULE A
CONSTRUCTION PERMIT FEES FOR MINOR AND CONDITIONAL MAJOR SOURCES**

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

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (c) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (c) All minor and conditional major source annual fees are due and payable to the State of Tennessee in full according to Schedule I of this subparagraph. The county in which a source is located determines when the source's annual 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 fee. Due to seasonal operations, cotton gin source annual fees are due and payable annually to the State of Tennessee by December 1 of each year regardless of the county in which the source is located. The fee must be paid to the State of Tennessee in full by the first day of the month that the fee is due. The Technical Secretary extends this due date by an appropriate period not to exceed 90 days where the source owner or operator's fee notice was mailed by the Department to an incorrect mailing address.

SCHEDULE I

**Month the Annual Fee is Due (Accounting Period)
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

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (d) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (d) 1. A newly constructed minor or 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 fee for the remainder of the annual accounting period. A minor or conditional major source ceasing operations during the annual accounting period will not receive a refund for annual fees paid.
2. Sources issued a combination construction and operating permit in accordance with paragraph (12) of Rule 1200-03-09-.02 shall pay annual fees as if operation of the new or modified source began on the date of permit issuance. This part does not apply to sources for which construction and operation of the new source or modification began prior to receipt of a construction permit.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (e) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (e) Except for sources that are covered under a general permit issued in accordance with Rule 1200-03-09-.06, 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 at the time of the fee assessment by the Division based on the current active permit(s). Sources with allowable emissions less than 10 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 source.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (f) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (f) A responsible official of a source operating under a general permit shall pay an annual emissions fee as stipulated in subparagraph (e) of this paragraph based on the allowable emissions specified in the general permit unless different fee rates are stipulated in the following table. These fees are due and payable by the date established in subparagraph (c) of this paragraph:

General Permit Category	Combined Annual Emission Fee and Base Fee	Permit Review Fee
-------------------------	---	-------------------

Perchloroethylene and Petroleum Solvent Dry Cleaners	\$0	\$0
Concrete Batch Plants with emissions less than 10 tons per calendar year	\$0	\$0
Concrete Batch Plants with emissions greater than or equal to 10 tons per calendar year	\$400	\$0
Portable rock crushers at True Minor Facilities	\$1,000	\$0
Portable rock crushers at Conditional Major Facilities	\$1,000	\$500
Asphalt Plants	\$1,000	\$500

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (a) of paragraph (8) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) The Technical Secretary will not issue any permit or renewal of a permit to an applicant until all fees required by this chapter have been paid in full to the State of Tennessee.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (b) of paragraph (8) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (b) If any part of any fee imposed under this rule is not paid within 15 days of the due date, a late payment penalty of five percent 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 of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within 15 days after the due date, shall bear interest at the maximum lawful rate from the due date to the date paid, compounded monthly; however, the total of the penalties and interest that accrue pursuant to subparagraph shall not exceed three times the amount of the original fee.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subpart (iii) part 2 of subparagraph (a) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (iii) Sources choosing to pay annual 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 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 fee is due August 1 of each year, except as allowed by part (g)3. of this paragraph.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Part 4 of subparagraph (b) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- 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 fee based on a calendar year and allowable emissions for the fractional remainder of the calendar year commencing upon the source's

start-up. However, in no case shall the annual fee be less than the annual base fee established in part (d)1 of this paragraph. Prior to July 1, 2024, in no case shall the annual fee be less than the minimum fee established in subpart (d)2(ii) of this paragraph effective on July 1, 2022.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subparagraph (d) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

(d) 1. Notwithstanding the fee rates established by parts 2 and 4 of this subparagraph, a responsible official of any source subject to this paragraph shall pay an annual base fee which shall be calculated in accordance with subparts (i) through (iii) of this part. This base fee shall be paid in addition to the annual emission fee established by subpart 2-(iii) of this subparagraph. The fee rates required by this part effective July 1, 2022, continue to apply until July 1, 2024.

(i) The base fee shall be determined by the number of federal air quality standards to which a major source or Paragraph 11 source is subject. The following federal air quality standards shall be considered if the standards have been incorporated into a permit issued to the facility under the provisions of Chapter 1200-03-09 or have been incorporated into Chapter 0400-30-38 or Chapter 0400-30-39:

(I) Standards of Performance for New Stationary Sources as codified in 40 C.F.R. part 60, excluding subparts A, B, Ba, C, Cb, Cc, Cd, Ce, Cf, AAA, DDDD, FFFF, MMMM, and UUUUa.

(II) National Emission Standards for Hazardous Air Pollutants as codified in 40 C.F.R. part 61, excluding subpart A.

(III) National Emissions Standards for Hazardous Air Pollutants as codified in 40 C.F.R. part 63, excluding subparts A, B, C, D, E, OO, PP, QQ, RR, SS, TT, UU, VV, and XX.

(ii) If a facility is subject to 40 C.F.R. part 60 subpart IIII or JJJJ, or 40 C.F.R. part 63 subpart ZZZZ or CCCCCC and is only subject to that subpart for air contaminate sources that are not required to be included in a permit in accordance with paragraph (4) of Rule 1200-03-09-.04, then such subpart shall not be included when determining the number of federal air quality standards that a source is subject.

(iii) The base fee is determined in accordance with the following table:

Number of federal air quality standards	Base Fee
0	\$10,000
1	\$15,000
2 to 3	\$20,000
4 to 5	\$30,000
6 to 10	\$40,000
11 to 20	\$50,000
21 and up	\$75,000

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) Reserved.
 - (iii) The emission fee rates applied to calculate the annual fee assessed pursuant to subparagraph (a) of this paragraph shall be as follows:
 - (I) Fee based on actual emissions: \$70.50 per ton for non-EGU sources and \$98.50 per ton for EGU sources; and
 - (II) Fee based on allowable emissions: \$48.50 per ton for non-EGU sources and \$68.00 per ton for EGU sources.
 - (iv) The fees and fee rates enumerated in this subparagraph must be supported by the Division's annual workload analysis that is approved by the Board.
3. The fees and fee rates specified in this subparagraph shall remain in effect until the effective date of an amendment to this subparagraph. Any revision to the fees and 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.
 4. Notwithstanding the fee rates established by part 1 or 2 of this subparagraph, a responsible official of any source subject to this paragraph shall pay a Title V modification fee calculated as follows:
 - (i) For each minor permit modification issued in accordance with subpart (11)(f)5(ii) of Rule 1200-03-09-.02 during the calendar year preceding the year in which the annual fee is due, the responsible official shall pay \$2,800.
 - (ii) For each significant modification issued in accordance with subpart (11)(f)5(iv) of Rule 1200-03-09-.02 during the calendar year preceding the year in which the annual fee is due, the responsible official shall pay \$5,000.
 5. The Title V modification fee required by part 4 of this subparagraph shall be paid in addition to the annual emission fee established by subpart 2(iii) of this subparagraph.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

Subpart (i) part 3 of subparagraph (g) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (i) Responsible officials choosing to pay the annual fee based on actual emissions or a mixture of actual and allowable emissions may request an extension of time for filing the emissions analysis with the Technical Secretary. The extension may, for facilities paying fees on a calendar year basis, be granted by the Technical Secretary for up to 90 days after the fee is due pursuant to subparagraph (a) of this paragraph. The extension may, for facilities paying fees on a fiscal year basis, be granted by the Technical Secretary for up to 60 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 fee payment of no less than 65% of the annual fee must accompany the request for extension to avoid penalties and interest on the underpayment of the annual 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 fee.

Authority: T.C.A. §§ 4-5-201, et seq., 68-203-103, et seq.; and 68-201-101, et seq.

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

Date: June 20, 2023



Signature: _____

Name of Officer: Michelle W. Owenby

Title of Officer: Director of the Division of Air Pollution Control

Department of State Use Only

Filed with the Department of State on: 6/20/2023



Tre Hargett
Secretary of State

RECEIVED

Jun 20 2023, 11:35 am

Secretary of State
Division of Publications