

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 11-12-12
Rule ID(s): 5335
File Date: 11/7/12
Effective Date: 2/5/13

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205

Agency/Board/Commission:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Jeryl W. Stewart
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0605
Email:	Jeryl.Stewart@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-03-10	Required Sampling, Recording and Reporting
Rule Number	Rule Title
1200-03-10-.02	Monitoring of Source Emissions, Recording, and Reporting of the Same are Required

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-03-10
Required Sampling, Recording, and Reporting

Amendment

Paragraph (2) of Rule 1200-03-10-.02 Monitoring of Source Emissions, Recording, and Reporting of the Same are Required is being amended by adding a new subparagraph (d) to read as follows:

- (d) Any source located at a facility required to obtain a major source operating permit in accordance with the provisions of paragraph (11) of rule 1200-03-09-.02 may submit the reports required by this rule on a semi-annual basis.

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)
Michael Atchison	✓				Michael Atchison
Dr. J. Ronald Bailey	✓				J. Ronald Bailey
Elaine Boyd	✓				Elaine H Boyd
Dr. Brian W. Christman				✓	
Dr. Wayne T. Davis	✓				Wayne T Davis
Dr. Mary English				✓	
Stephen R. Gossett				✓	
Mayor Tommy Green				✓	
Dr. Shawn A. Hawkins	✓				Shawn A Hawkins
Helen Hennon				✓	
Richard M. Holland	✓				Ron Head
John Roberts	✓				John Roberts
Mayor Larry Waters	✓				Larry Waters
Alicia M. Wilson				✓	

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 08/08/2012, 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: 08/27/09

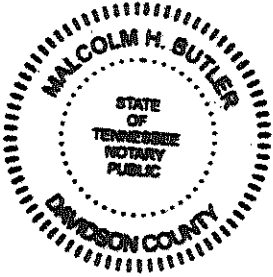
Rulemaking Hearing(s) Conducted on: (add more dates). 10/20/09

Date: Sept. 10, 2012

Signature: Barry R. Stephens

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

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: September 10, 2012

Notary Public Signature: Malcolm H Butler

My commission expires on: May 6, 2013

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.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

11-5-12

Date

Department of State Use Only

Filed with the Department of State on: 11/7/12

Effective on: 2/5/13

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2012 NOV -7 PM 12:35
SECRETARY OF STATE
PUBLIC AFFAIRS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: The Division must provide further technical analysis and information related to the potential impact of the proposed amendment to attainment, maintenance, and reasonable further progress for the National Ambient Air Quality Standards per Section 110(l) of the Clean Air Act (CAA).

Response: The proposed revision to paragraph (2) of Rule 1200-03-10-.02 is simply to allow facilities subject to the provisions of Title V (hence the reference to paragraph (11) of Rule 1200-03-09-.02 which contains the Tennessee Title V regulations) to report data from continuous in-stack monitoring systems with the Title V semi-annual reports rather than quarterly as the current regulation requires. The rationale for this request is that the quarterly timeframe was established in federal rules promulgated in the mid-1970's, well before any Title V reporting requirements existed. The underlying federal rule upon which Rule 1200-03-10-.02 is based in 40 CFR part 51, Appendix P, Section 4.1, which established the quarterly reporting time frame. This rule was last updated in 1986. The quarterly time frame for reporting excess emissions from continuous emission monitors required by the New Source Performance Standards (40 CFR part 60) was set forth in the original 40 CFR 60.7(c) promulgated in the 1970's. In the 1990's 40 CFR 60.7(c) was updated to allow for the reporting of this data on a semi-annual basis to match the semi-annual reporting requirements of Title V. The proposed revision to Rule 1200-03-10-.02 is simply to allow facilities with continuous emission monitors to synchronize the reporting of the excess emissions data with the semi-annual reporting requirements of Title V.

In addressing the requirements of Section 110(l) of the Clean Air Act, The Tennessee Division of Air Pollution Control declares that this proposed SIP revision will have no effect on any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement as it simply involves a revision of the time frame over which data is reported to the Division. In addressing the requirements of Section 193 of the Clean Air Act, The Tennessee Division of Air Pollution Control declares that this proposed SIP revision is not a control requirement. While the original rule was in effect prior to November 15, 1990, the original rule only addresses the reporting of emissions and does not address any emissions reduction or emissions control requirements. Therefore, amending the original regulation will have no effect on the emissions of any air pollutant.

Comment: There appears to be a typographical error for paragraph (2) of Rule 1200-03-10-.02 "Monitoring of source emissions, Recording and Reporting of the Same are Required." The new subparagraph (d) being proposed reads: "(d) Any source located at a facility required to obtain a major source operating permit in accordance with the provisions to paragraph (11) of rule 1200-03-10-.02 may submit the reports required by this rule on a semi-annual basis." Please correct the proposed highlighted rule to reference 1200-03-.09-.02 instead of 1200-03-10-.02.

Response: The typographical error has been corrected.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (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 revision to Rule 1200-03-10-.02 would not affect any facility currently considered as being a small business.

- (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:

None.

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

The revision to Rule 1200-03-10-.02 would have no impact 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:

None.

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

The provisions of Rule 1200-03-10-.02 are the state equivalent of federal regulations contained in 40 CFR part 51, Appendix P. The inclusion of this language into state regulations was a federal requirement.

- (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.

Not Applicable.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These proposed rule revisions will have no projected 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 revision serves to allow sources subject to the in-stack monitoring requirements currently set forth in Rule 1200-03-10-.02 to synchronize the reporting of this data with the reports required by the Title V program referenced in paragraph (11) of Rule 1200-03-09-.02.

- (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;

Rule 1200-03-10-.02 is the state equivalent of the Federal regulations found in 40 CFR part 51, Appendix P of the Code of Federal Regulations.

- (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;

This revision will affect facilities that are subject Title V program referenced in paragraph (11) of Rule 1200-03-09-.02 by allowing the consolidation of the reporting of compliance data. This revision was initiated due to a request from the regulated community.

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

The Board is not aware of any.

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

None.

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

Jeryl W. Stewart
Division of Air Pollution Control
9th Floor, L & C Annex,
401 Church St.,
Nashville, TN 37243-1531
(615) 532-0605

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

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548

- (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

Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548
Alan.Leiserson@tn.gov

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

The Board is not aware of any.

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: _____
 Rule ID(s): _____
 File Date: _____
 Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing, T.C.A. § 4-5-205

Agency/Board/Commission:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Jeryl W. Stewart
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-0605
Email:	Jeryl.Stewart@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
1200-03-10	Required Sampling, Recording and Reporting
Rule Number	Rule Title
1200-03-10-.02	Monitoring of Source Emissions, Recording, and Reporting of the Same are Required

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-03-10
Required Sampling, Recording, and Reporting

Amendment

Paragraph (2) of Rule 1200-03-10-.02 Monitoring of Source Emissions, Recording, and Reporting of the Same are Required is being amended by adding a new subparagraph (d) to read as follows:

- (d) Any source located at a facility required to obtain a major source operating permit in accordance with the provisions of paragraph (11) of rule 1200-03-09-.02 may submit the reports required by this rule on a semi-annual basis.

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)
Michael Atchison	X				
Dr. J. Ronald Bailey	X				
Elaine Boyd	X				
Dr. Brian W.Christman				X	
Dr. Wayne T. Davis	X				
Dr. Mary English				X	
Stephen R. Gossett				X	
Mayor Tommy Green				X	
Dr. Shawn A. Hawkins	X				
Helen Hennon				X	
Richard M. Holland	X				
John Roberts	X				
Mayor Larry Waters	X				
Alicia M. Wilson				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 08/08/2012, 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: 08/27/09

Rulemaking Hearing(s) Conducted on: (add more dates). 10/20/09

Date: _____

Signature: _____

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

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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.

Robert E. Cooper, Jr.
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 containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Comment: The Division must provide further technical analysis and information related to the potential impact of the proposed amendment to attainment, maintenance, and reasonable further progress for the National Ambient Air Quality Standards per Section 110(l) of the Clean Air Act (CAA).

Response: The proposed revision to paragraph (2) of Rule 1200-03-10-.02 is simply to allow facilities subject to the provisions of Title V (hence the reference to paragraph (11) of Rule 1200-03-09-.02 which contains the Tennessee Title V regulations) to report data from continuous in-stack monitoring systems with the Title V semi-annual reports rather than quarterly as the current regulation requires. The rationale for this request is that the quarterly timeframe was established in federal rules promulgated in the mid-1970's, well before any Title V reporting requirements existed. The underlying federal rule upon which Rule 1200-03-10-.02 is based in 40 CFR part 51, Appendix P, Section 4.1, which established the quarterly reporting time frame. This rule was last updated in 1986. The quarterly time frame for reporting excess emissions from continuous emission monitors required by the New Source Performance Standards (40 CFR part 60) was set forth in the original 40 CFR 60.7(c) promulgated in the 1970's. In the 1990's 40 CFR 60.7(c) was updated to allow for the reporting of this data on a semi-annual basis to match the semi-annual reporting requirements of Title V. The proposed revision to Rule 1200-03-10-.02 is simply to allow facilities with continuous emission monitors to synchronize the reporting of the excess emissions data with the semi-annual reporting requirements of Title V.

In addressing the requirements of Section 110(l) of the Clean Air Act, The Tennessee Division of Air Pollution Control declares that this proposed SIP revision will have no effect on any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement as it simply involves a revision of the time frame over which data is reported to the Division. In addressing the requirements of Section 193 of the Clean Air Act, The Tennessee Division of Air Pollution Control declares that this proposed SIP revision is not a control requirement. While the original rule was in effect prior to November 15, 1990, the original rule only addresses the reporting of emissions and does not address any emissions reduction or emissions control requirements. Therefore, amending the original regulation will have no effect on the emissions of any air pollutant.

Comment: There appears to be a typographical error for paragraph (2) of Rule 1200-03-10-.02 "Monitoring of source emissions, Recording and Reporting of the Same are Required." The new subparagraph (d) being proposed reads: "(d) Any source located at a facility required to obtain a major source operating permit in accordance with the provisions to paragraph (11) of rule 1200-03-~~10~~-.02 may submit the reports required by this rule on a semi-annual basis." Please correct the proposed highlighted rule to reference 1200-03-~~09~~-.02 instead of 1200-03-~~10~~-.02.

Response: The typographical error has been corrected.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (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 revision to Rule 1200-03-10-.02 would not affect any facility currently considered as being a small business.

- (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:

None.

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

The revision to Rule 1200-03-10-.02 would have no impact 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:

None.

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

The provisions of Rule 1200-03-10-.02 are the state equivalent of federal regulations contained in 40 CFR part 51, Appendix P. The inclusion of this language into state regulations was a federal requirement.

- (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.

Not Applicable.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

These proposed rule revisions will have no projected 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 revision serves to allow sources subject to the in-stack monitoring requirements currently set forth in Rule 1200-03-10-.02 to synchronize the reporting of this data with the reports required by the Title V program referenced in paragraph (11) of Rule 1200-03-09-.02.

- (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;

Rule 1200-03-10-.02 is the state equivalent of the Federal regulations found in 40 CFR part 51, Appendix P of the Code of Federal Regulations.

- (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;

This revision will affect facilities that are subject Title V program referenced in paragraph (11) of Rule 1200-03-09-.02 by allowing the consolidation of the reporting of compliance data. This revision was initiated due to a request from the regulated community.

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

The Board is not aware of any.

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

None.

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

Jeryl W. Stewart
Division of Air Pollution Control
9th Floor, L & C Annex,
401 Church St.,
Nashville, TN 37243-1531
(615) 532-0605

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

Alan M. Leiserson
Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548

- (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

Legal Services Director, Office of General Counsel
Tennessee Department of Environment and Conservation
20th Floor, L & C Tower
Nashville, TN 37243-1548
Alan.Leiserson@tn.gov

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

The Board is not aware of any.