

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: sos.information@state.tn.us

For Department of State Use Only

Sequence Number: 01-16-09
Rule ID(s): 3960
File Date: 01/15/09
Effective Date: 03/31/09

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment and 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@state.tn.us

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here.)

Chapter Number	Chapter Title
1200-03-07	Process Emission Standards
Rule Number	Rule Title
1200-03-07-.07	General Provisions and Applicability for Process Gaseous Emission Standards

(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 1200-03-07
Process Emission Standards

Amendment

Paragraph (5) of Rule 1200-03-07-.07 General Provisions and Applicability for Process Gaseous Emission Standards Total Fluoride Emissions From Potrooms at Primary Aluminum Reduction Plants is amended by deleting the paragraph in its entirety and replacing it with the word "Reserved" so that, as amended, paragraph (5) shall read:

(5) Reserved

Authority: T.C.A. § 68-201-105

* 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				
Tracy R. Carter	X				
Ngee-Sing Chong				X	
Wayne T. Davis	X				
Mary English				X	
Stephen R. Gossett	X				
Helen Hennon				X	
Richard Holland	X				
Joe C. McKinnon	X				
Donald Mull	X				
Dale Swafford	X				
Greer Tidwell, Jr.				X	
Larry Waters	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Air Pollution Control Board (board/commission/ other authority) on 07/11/2007 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/30/07

Notice published in the Tennessee Administrative Register on: 05/15/07

Rulemaking Hearing(s) Conducted on: (add more dates). 06/21/07

Date: Nov. 14, 2008

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: November 14, 2008

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 23, 2009

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.

RE Cooper, Jr.
Robert E. Cooper, Jr.
Attorney General and Reporter
1-9-09
Date

Department of State Use Only

Filed with the Department of State on: 1/15/09
Effective on: 3/31/09

Tre Hargett
Tre Hargett
Secretary of State

RECEIVED
2009 JAN 15 AM 8:04
SECRETARY OF STATE
PUBLICATIONS

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 shall 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 commenter noted that the new federal rule is more strict than the existing state rule and supports adoption of the rule revision.

Response: The Department and the Board agrees.

Comment: The commenter pointed out that the Division incorporated into the public depository a copy of a United States Environmental Protection Agency final rule published in the Federal Register on March 11, 2003 incorporating an identical rule revision for the State of Indiana into the Indiana State Implementation Plan.

Response: The Department and the Board agrees.

RECEIVED
2009 JAN 15 AM 8:06
SECRETARY OF STATE
PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

The administrative record for this rule shows that there is no basis to perform a Regulatory Flexibility Analysis or to provide an Economic Impact Statement under requirements of T.C.A. §§ 4-5-401 et seq. No small business as defined in T.C.A. § 4-5-102 (less than or equal to 50 full-time employees) is affected by this rule.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 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 rule revision serves to delete an obsolete rule addressing primary aluminum reduction facilities from the current air pollution control regulations. The rule has been superseded by a new Federal rule and has no practical value.

- (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 original regulation was mandated by the provisions of 111(d) of the Federal Clean Air Act and its deletion is identical to an action taken by the State of Indiana which was given Federal approval.

- (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;

The rule revision will affect primary aluminum reduction facilities. The only affected facility is the ALCOA facility, which urged the adoption of the rule revision.

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

The Department 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
Nashville, Tennessee

- (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
Tennessee Department of Environment and Conservation

- (H) Office address and telephone number 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
20th Floor L & C Tower
Nashville, Tennessee 37243-1548

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

The Department is not aware of any.