

**Department of State  
Division of Publications**

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Sequence Number: 03-18-09  
Rule ID(s): 4154  
File Date: 03/30/09  
Effective Date: 06/13/09

# 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*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Jeryl W. Stewart
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**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.)

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. 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 1200-03-14  
Control of Sulfur Dioxide Emissions

Amendment

Part 1 of subparagraph (b) of paragraph (6) of rule 1200-03-14-.01 General Provisions is amended by deleting the part in its entirety and replacing it with the word "Reserved" so that, as amended, Part 1 shall read:

1. 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				✓	
Dr. J. Ronald Bailey	✓				J. Ronald Bailey
Tracy R. Carter	✓				Tracy R. Carter
Dr. Wayne T. Davis	✓				Wayne T. Davis
Dr. Mary English				✓	
Stephen R. Gossett	✓				Stephen Gossett
Dr. Shawn A. Hawkins	✓				Shawn Hawkins
Helen Hennon				✓	
Richard M. Holland	✓				Richard Holland
Mayor Donald Mull	✓				Donald Mull
Dale Swafford				✓	
Greer Tidwell, Jr.	✓				Greer Tidwell Jr
Mayor Larry Waters	✓				Larry Waters

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board (board/commission/ other authority) on 12/10/2008 (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: 09/30/08

Notice published in the Tennessee Administrative Register on: 10/15/08

Rulemaking Hearing(s) Conducted on: (add more dates). 11/20/08

Date: January 21, 2009

Signature: Barry R. Stephens

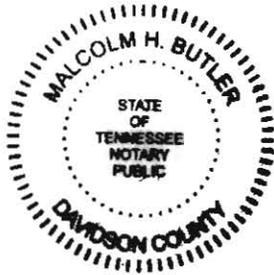
Name of Officer: Barry R. Stephens, P.E.

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: January 21, 2009

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 23, 2009



All rulemaking hearing rules provided 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

3-25-09  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/30/09

Effective on: 6/13/09

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 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.

There were no verbal or written comments received at the public hearing or during the comment period.

## Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105<sup>th</sup> 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)

- (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:

None

- (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:

None

- (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 proposed rule revision is based upon recommendations of the United States Environmental Protection Agency published in the Federal Register, Volume 71, No. 200, Tuesday, October 17, 2006, beginning on page 61236, Revisions to Ambient Air Monitoring Regulations, Final Rule.

- (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

## 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;

The proposed amendment to the Ambient Air Quality rules eliminates one of the three mandatory conditions that must be present prior to the grant of a petition to terminate ambient air quality monitoring for sulfur dioxide from a source. The three conditions, prior to the proposed amendment, are as follows:

- (1) The actual sulfur dioxide emissions from a fuel burning installation do not exceed 20,000 tons per year.
- (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.

The proposed amendment simply deletes the first condition of a 20,000 ton maximum level of measured sulfur dioxide emissions as a mandatory prerequisite for a waiver of the monitoring requirement. Sulfur dioxide levels have dropped markedly over the last ten years due to advancements in fuel filtering and fuel refinement, all of which were hastened by EPA rule, such that no non-attainment areas for sulfur dioxide in the State of Tennessee remain.

- (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 state rule was promulgated to meet the requirements of 40 CFR 58 for the establishment of an ambient air surveillance network. The proposed rule revision is based upon recommendations of the United States Environmental Protection Agency published in the Federal Register, Volume 71, No. 200, Tuesday, October 17, 2006, beginning on page 61236, Revisions to Ambient Air Monitoring Regulations, Final Rule.

- (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 the Tennessee Valley Authority coal fired electric generating plants and the Tennessee Eastman Chemical manufacturing facility. The Tennessee Valley Authority has 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;

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Division of Air Pollution Control  
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Nashville, Tennessee 37243-1531

- (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  
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  
Department of Environment and Conservation  
20<sup>th</sup> Floor L & C Tower  
Nashville, Tennessee 37243-1548  
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.