

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
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Sequence Number: 08-43-11
 Rule ID(s): 5007
 File Date: 08/29/2011
 Effective Date: 11/27/2011

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 & Conservation
Division:	Air Pollution Control
Contact Person:	Jeryl W. Stewart
Address:	9 th Floor L & C Annex 401 Church St. Nashville, TN
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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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1200-03-16	New Source Performance Standards
Rule Number	Rule Title
1200-03-16-.01	General Provisions
1200-03-16-.22	Coal Preparation Plants
1200-03-16-.53	Nonmetallic Mineral Processing Plants

(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://tn.gov/sos/rules/1360/1360.htm>)

Chapter 1200-03-16
New Source Performance Standards

Amendment

Subparagraph (c) of paragraph (7) of Rule 1200-03-16-.01 General Provisions is amended by deleting it in its entirety and replacing it with the word "Reserved" so that, as amended, the subparagraph shall read:

(c) Reserved

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

Rule 1200-03-16-.22 Coal Preparation Plants is amended by deleting the rule in its entirety and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-16-.22 Reserved

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

Rule 1200-03-16-.53 Nonmetallic Mineral Processing Plants is amended by deleting the rule in its entirety and replacing it the word "Reserved" so that, as amended, the rule shall read:

1200-03-16-.53 Reserved

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

Chapter 1200-03-16 Table of Contents is amended by deleting the titles of rules 1200-03-16-.22 and 1200-03-16-.53 and replacing them with the word "Reserved" in both places.

* 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
Elaine Boyd	✓				Elaine Boyd by Sam
Dr. Brian Christman	✓				Brian Christman
Dr. Wayne T. Davis	✓				Wayne Davis
Dr. Mary English	✓				Mary R English
Stephen R. Gossett				✓	
Honorable Mayor Tommy Green, Jr.				✓	
Dr. Shawn A. Hawkins				✓	
Helen S. Hennon	✓				Helen S. Hennon
Richard M. Holland	✓				Richard Holland
John R. Roberts, Sr.	✓				John R. Roberts
Honorable Mayor Larry Waters	✓				Larry Waters
Alicia M. Wilson	✓				Alicia 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 07/13/2011, 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: 08/27/09

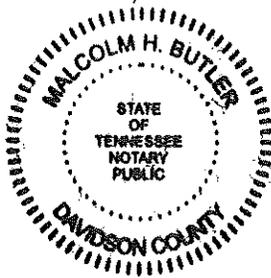
Rulemaking Hearing(s) Conducted on: (add more dates). 10/20/09

Date: July 13, 2011

Signature: [Handwritten Signature]

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

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: July 13, 2011

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.

[Handwritten Signature]

Robert E. Cooper, Jr.
Attorney General and Reporter

8-24-11

Date

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Filed with the Department of State on: 8/29/11

Effective on: 11/27/11

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SECRETARY OF STATE
REGISTRATION DIVISION

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.

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

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 revisions to Rule 1200-03-16-.01 would not affect any facility currently considered as being a small business.

The revisions to Rules 1200-03-16-.22 and 1200-03-16-.53 could potentially affect any small business that would be subject to either of the regulations. For either situation the affect would be beneficial in that they would not be subject to obsolete state regulations in addition to the current federal regulations. To quantify the number of small businesses subject to either rule would require an exhaustive research effort as affected facilities may or may not be small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

There would be no reporting, recordkeeping, or other administrative costs associated with these amendments.

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

The revisions to Rule 1200-03-16-.01 would have no impact on small businesses and consumers.

The revisions to Rules 1200-03-16-.22 and 1200-03-16-.53 could prevent small businesses from being subject to both obsolete state and current federal regulations. There would be no affect on 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:

There are no alternatives available.

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

The provisions of Chapter 1200-03-16 are the state equivalent of federal regulations contained in 40 CFR 60. The deletion of Rules 1200-03-16-.01, 1200-03-16-.22 and 1200-03-16-.53 serve to allow the Division to utilize current federal language.

- (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.

Small business needs the benefits included in these amendments to prevent these entities from being subject to both obsolete state regulations and federal rules.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 “any rule to 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 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;

These rule revisions serve to allow the state to utilize current Federal regulations, as published in the Code of Federal Regulations, through its delegation of authority rather than subject affected facilities to both the current federal regulations and their obsolete state equivalent. Specifically, these rule revisions will serve to address the reporting of monitored emissions, coal preparation plants, and nonmetallic mineral processing plants.

- (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;

Chapter 1200-03-16 is the state equivalent of the Federal regulations found in Title 40, Part 60 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;

The rule revision will affect facilities that are required to report monitored emissions, coal preparation plants, and nonmetallic mineral processing plants. No comments were received concerning these proposed rule revisions.

- (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;

There is no anticipated fiscal impact.

- (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

- (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
Environment and Conservation

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel

Tennessee Dept. of Environment and Conservation
20th Floor L & C Tower
Nashville, Tennessee 37243-1548
615-532-0131
Alan.Leiserson@tn.gov

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

The Department is not aware of any.

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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
1200-03-16	New Source Performance Standards
Rule Number	Rule Title
1200-03-16-.01	General Provisions
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(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://tn.gov/sos/rules/1360/1360.htm>)

Chapter 1200-03-16
New Source Performance Standards

Amendment

Subparagraph (c) of paragraph (7) of Rule 1200-03-16-.01 General Provisions is amended by deleting it in its entirety and replacing it with the word "Reserved" so that, as amended, the subparagraph shall read:

- (c) ~~Reserved Each owner or operator required to install a continuous monitoring system shall submit a written report of excess emissions (as defined in applicable rules) to the Technical Secretary for very calendar quarter. All quarterly reports shall be postmarked by the 30th day following the end of each calendar quarter and shall include the following information:~~
- ~~1. The magnitude of excess emissions computed in accordance with subparagraph (8)(h), any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions.~~
 - ~~2. Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.~~
 - ~~3. The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.~~
 - ~~4. When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be stated in the report.~~

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

Rule 1200-03-16-.22 Coal Preparation Plants is amended by deleting the rule in its entirety and replacing it with the word "Reserved" so that, as amended, the rule shall read:

1200-03-16-.22 Reserved Coal Preparation Plants

- (1) ~~Applicability. The provisions of this rule shall apply to any of the affected facilities in coal preparation plants which process more than 200 tons per day. For the purpose of this rule the affected facilities include: thermal dryers, pneumatic coal cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and coal transfer and loading systems commenced on or after February 9, 1977.~~
- (2) ~~Definitions.~~
- ~~(a) "Coal preparation plant" means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.~~
 - ~~(b) "Bituminous coal" means solid fossil fuel classified as bituminous coal by A.S.T.M. Designation D-388-66.~~
 - ~~(c) "Coal" means all solid fossil fuels classified as anthracite, bituminous, sub-bituminous, or lignite by A.S.T.M. Designation D-388-66.~~
 - ~~(d) "Cyclonic flow" means a spiraling movement of exhaust gases within a duct or stack.~~

- (e) ~~“Thermal Dryer” means any facility in which the moisture content of bituminous coal is reduced by contact with a heated gas stream which is exhausted to the atmosphere.~~
- (f) ~~“Pneumatic coal cleaning equipment” means any facility which classifies bituminous coal by size or separates bituminous coal from refuse by application of air stream(s).~~
- (g) ~~“Coal processing and conveying equipment” means any machinery used to reduce the size of coal or to separate coal from refuse, and the equipment used to convey coal to or remove coal and refuse from the machinery. This includes, but is not limited to, breakers, crushers, screens, and conveyor belts.~~
- (h) ~~“Coal storage system” means any facility used to store coal except for open storage piles.~~
- (i) ~~“Transfer and loading system” means any facility used to transfer and load coal for shipment.~~

~~(3) Standards for Particulate Matter and Opacity.~~

- (a) ~~On and after the date on which the performance test required to be conducted by paragraph .01(5) of this chapter is completed, an owner or operator subject to the provisions of this rule shall not cause to be discharged into the atmosphere from any thermal dryer gases which:~~
 - 1. ~~Contain particulate matter in excess of 0.070 g/dscm (0.031 gr/dscf).~~
 - 2. ~~Exhibit 20 percent opacity or greater.~~
- (b) ~~On and after the date on which the performance test required to be conducted by paragraph .01(5) of this chapter is completed, an owner or operator subject to the provisions of this rule shall not cause to be discharged into the atmosphere from any pneumatic coal cleaning equipment, gases which:~~
 - 1. ~~Contain particulate matter in excess of 0.040 g/dscm (0.018 gr/dscf).~~
 - 2. ~~Exhibit 10 percent opacity or greater.~~
- (c) ~~On and after the date on which the performance test required to be conducted by paragraph .01(5) of this chapter is completed, an owner or operator subject to the provisions of this subpart shall not cause to be discharged into the atmosphere from any coal processing and conveying equipment, coal storage system, or coal transfer and loading system processing coal, gases which exhibit 20 percent opacity or greater.~~

~~(4) Monitoring of Operations.~~

- (a) ~~The owner or operator of any thermal dryer shall install, calibrate, maintain and continuously operate monitoring devices as follows:~~
 - 1. ~~A monitoring device for the measurement of the temperature of the gas stream at the exit of the thermal dryer on a continuous basis. The monitoring device is to be certified by the manufacturer to be accurate within $\pm 3^{\circ}$ Fahrenheit.~~
 - 2. ~~For affected facilities that use venturi scrubber emissions control equipment:~~
 - (i) ~~A monitoring device for the continuous measurement of the pressure loss through the venturi constriction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ± 1 inch water gauge.~~
 - (ii) ~~A monitoring device for the continuous measurement of the water supply pressure to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within ± 5 percent of design water supply pressure.~~

~~The pressure sensor or tap must be located close to the water discharge point. The Technical Secretary may be consulted for approval of alternative locations.~~

~~(b) All monitoring devices under subparagraph (a) of this paragraph are to be recalibrated annually in accordance with procedures under subparagraph .01(8)(b) of this chapter.~~

~~(5) Test Methods and Procedures.~~

~~(a) For determining the concentration of particulate matter and associated moisture content, the sampling time for each run is at least 60 minutes and the minimum sample volume is 0.85 decm (30 dscf) except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Technical Secretary. Sampling is not to be started until 30 minutes after start-up and is to be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Technical Secretary.~~

~~(b) The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures.~~

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

Rule 1200-03-16-.53 Nonmetallic Mineral Processing Plants is amended by deleting the rule in its entirety and replacing it the word "Reserved" so that, as amended, the rule shall read:

1200-03-16-.53 Reserved Nonmetallic Mineral Processing Plants

~~(1) Applicability and designation of affected facility.~~

~~(a) 1. Except as provided in subparagraphs (a)2, (b), (c), and (d) of this paragraph, the provisions of this rule are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including, the first storage silo or bin are subject to the provisions of this subpart.~~

~~2. The provisions of this rule do not apply to the following operations: All facilities located in underground mines; and stand-alone screening operations at plants without crushers or grinding mills.~~

~~(b) An affected facility that is subject to the provisions of rules 1200-3-16-.05 or .08 or that follows in the plant process any facility subject to the provisions of rules 1200-3-16-.05 or .08 is not subject to the provisions of this rule.~~

~~(c) Facilities at the following plants are not subject to the provisions of this rule:~~

~~1. Fixed sand and gravel plants and crushed stone plants with capacities, as defined in paragraph (2) of this rule, of 23 megagrams per hour (25 tons per hour) or less;~~

~~2. Portable sand and gravel plants and crushed stone plants with capacities, as defined in paragraph (2) of this rule, of 136 megagrams per hour (150 tons per hour) or less; and~~

~~3. Common clay plants and pumice plants with capacities, as defined in paragraph (2) of this rule, of 9 megagrams per hour (10 tons per hour) or less.~~

~~(d) 1. When an existing facility is replaced by a piece of equipment of equal or smaller size as defined in paragraph (2) of this rule, having the same function as the existing facility, the~~

~~new facility is exempt from the provisions of paragraphs (3), (5) and (6) of this rule, except as provided for in part (d) 3 of this paragraph.~~

~~2. An owner or operator complying with subparagraph (d)1 of this paragraph shall submit the information required in paragraph (7)(a).~~

~~3. An owner or operator replacing all existing facilities in a production line with new facilities does not qualify for the exemption described in part (d)1 of this paragraph and must comply with the provisions of paragraphs (3), (5) and (6) of this rule.~~

~~(e) An affected facility under subparagraph (a) of this paragraph that commences construction, reconstruction, or modification after November 6, 1988, is subject to the requirements of this rule.~~

~~(2) Definitions~~

~~(a) "Bagging operation" means the mechanical process by which bags are filled with nonmetallic minerals.~~

~~(b) "Belt conveyor" means a conveying device that transports material from one location to another by means of an endless belt that is carried on a series of idlers and routed around a pulley at each end.~~

~~(c) "Bucket elevator" means a conveying device of nonmetallic minerals consisting of a head and foot assembly which supports and drives an endless single or double strand chain or belt to which buckets are attached.~~

~~(d) "Building" means any frame structure with a roof.~~

~~(e) "Capacity" means the cumulative rated capacity of all initial crushers that are part of the plant.~~

~~(f) "Capture system" means the equipment (including enclosures, hoods, ducts, fans, dampers, etc.) used to capture and transport particulate matter generated by one or more process operations to a control device.~~

~~(g) "Control device" means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more process operations at a nonmetallic mineral processing plant.~~

~~(h) "Conveying system" means a device for transporting materials from one piece of equipment or location to another location within a plant. Conveying systems include but are not limited to the following: Feeders, belt conveyors, bucket elevators and pneumatic systems.~~

~~(i) "Crusher" means a machine used to crush any nonmetallic minerals, and includes, but is not limited to, the following types: jaw, gyratory, cone, roll, rod mill, hammermill, and impactor.~~

~~(j) "Enclosed truck or railcar loading station" means that portion of a nonmetallic mineral processing plant where nonmetallic minerals are loaded by an enclosed conveying system into enclosed trucks or railcars.~~

~~(k) "Fixed plant" means any nonmetallic mineral processing plant at which the processing equipment specified in subparagraph (1)(a) of this rule is attached by a cable, chain, turnbuckle, belt or other means (except electrical connections) to any anchor, slab, or structure including bedrock.~~

~~(l) "Fugitive emission" means particulate matter that is not collected by a capture system and is released to the atmosphere at the point of generation.~~

~~(m) "Grinding mill" means a machine used for the wet or dry fine crushing of any nonmetallic mineral. Grinding mills include, but are not limited to, the following types: hammer, roller, rod, pebble and~~

~~ball, and fluid energy. The grinding mill includes the air conveying system, air separator, or air classifier, where such systems are used.~~

~~(n) "Initial crusher" means any crusher into which nonmetallic minerals can be fed without prior crushing in the plant.~~

~~(o) "Nonmetallic mineral" means any of the following minerals or any mixture of which the majority is any of the following minerals:~~

~~1. Crushed and broken stone, including Limestone, Dolomite, Granite, Traprock, Sandstone, Quartz, Quartzite, Marl, Marble, Slate, Shale, Oil Shale, and Shell.~~

~~2. Sand and Gravel.~~

~~3. Clay including Kaolin, Fireclay, Bentonite, Fuller's Earth, Ball Clay, and Common Clay.~~

~~4. Rock Salt.~~

~~5. Gypsum.~~

~~6. Sodium Compounds, including Sodium Carbonate, Sodium Chloride, and Sodium Sulfate.~~

~~7. Pumice.~~

~~8. Gilsonite.~~

~~9. Talc and Pyrophyllite.~~

~~10. Boron, including Borox, Kernite, and Colemanite.~~

~~11. Barite.~~

~~12. Fluorospar.~~

~~13. Feldspar.~~

~~14. Diatomite.~~

~~15. Perlite.~~

~~16. Vermiculite.~~

~~17. Mica.~~

~~18. Kyanite, including Andalusite, Sillimanite, Topaz, and Dumortierite.~~

~~(p) "Nonmetallic mineral processing plant" means any combination of equipment that is used to crush or grind any nonmetallic mineral wherever located, including lime plants, power plants, steel mills, asphalt concrete plants, portland cement plants, or any other facility processing nonmetallic minerals except as provided in subparagraphs (1)(b) and (c) of this rule.~~

~~(q) "Portable plant" means any nonmetallic mineral processing plant that is mounted on any chassis or skids and may be moved by the application of a lifting or pulling force. In addition, there shall be no cable, chain, turnbuckle, bolt or other means (except electrical connections) by which any piece of equipment is attached or clamped to any anchor, slab, or structure, including bedrock that must be moved prior to the application of a lifting or pulling force for the purpose of transporting the unit.~~

- ~~(r) "Production line" means all affected facilities (crushers, grinding mills, screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck and railcar loading stations) which are directly connected or are connected by a conveying system.~~
- ~~(s) "Screening operations" means a device for separating material according to size by passing undersize material through one or more mesh surfaces (screens) in series, and retaining oversize material on the mesh surfaces (screens).~~
- ~~(t) "Size" means the rated capacity in tons per hour of a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or railcar loading station; the total surface area of the top screen of a screening operation; the width of a conveyor belt; and the rated capacity in tons of a storage bin.~~
- ~~(u) "Stack emission" means the particulate matter that is released to the atmosphere from a capture system.~~
- ~~(v) "Storage bin" means a facility for storage (including surge bins) of nonmetallic minerals prior to further processing or loading.~~
- ~~(w) "Transfer point" means a point in a conveying operation where the nonmetallic mineral is transferred to or from a belt conveyor except where the nonmetallic mineral is being transferred to a stockpile.~~
- ~~(x) "Truck dumping" means the unloading of nonmetallic minerals from movable vehicles designed to transport nonmetallic minerals from one location to another. Movable vehicles include but are not limited to: trucks, front end loaders, skip hoists, and railcars.~~
- ~~(y) "Vent" means an opening through which there is mechanically induced air flow for the purpose of exhausting from a building air carrying particulate matter emissions from one or more affected facilities.~~
- ~~(z) "Wet mining operation" means a mining or dredging operation designed and operated to extract any nonmetallic mineral regulated under this subpart from deposits existing at or below the water table, where the nonmetallic mineral is saturated with water.~~
- ~~(aa) "Wet screening operation" means a screening operation at a nonmetallic mineral processing plant which removes unwanted material or which separates marketable fines from the product by a washing process which is designed and operated at all times such that the product is saturated with water.~~
- ~~(3) Standard for particulate matter.~~
- ~~(a) On and after the date on which the performance test required to be conducted by provisions of this rule shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any stack emissions which:~~
- ~~1. Contain particulate matter in excess of 0.05 g/dscm; and~~
 - ~~2. Exhibit greater than 7 percent opacity, unless the stack emissions are discharged from an affected facility using a wet scrubbing control device. Facilities using a wet scrubber must comply with the reporting provisions of subparagraphs (7)(c), (d), and (e) of this rule.~~
- ~~(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under paragraph (6) of rule .01 of this chapter, no owner or operator subject to the provisions of this rule shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity, except as provided in subparagraphs (c), (d), and (e) of this paragraph.~~

- ~~(c) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under paragraph (6) of rule .01 of this chapter, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.~~
- ~~(d) Truck dumping of nonmetallic minerals into any screening operation, feed hopper, or crusher is exempt from the requirements of this paragraph.~~
- ~~(e) If any transfer point on a conveyor belt or any other affected facility is enclosed in a building then each enclosed affected facility must comply with the emissions limits in subparagraphs (a), (b) and (c) of this paragraph, or the building enclosing the affected facility or facilities must comply with the following emission limits:~~
- ~~1. No owner or operator shall cause to be discharged into the atmosphere from any building enclosing any transfer point on a conveyor belt or any other affected facility any visible fugitive emissions except emissions from a vent as defined in paragraph (2) of this rule.~~
 - ~~2. No owner or operator shall cause to be discharged into the atmosphere from any vent of any building enclosing any transfer point on a conveyor belt or any other affected facility emissions which exceed the stack emissions limits in subparagraph (a) of this paragraph.~~
- ~~(f) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under paragraph (6) of rule .01 of this chapter, no owner or operator shall cause to be discharged into the atmosphere from any baghouse that controls emissions from only an individual, enclosed storage bin, stack emissions which exhibit greater than 7 percent opacity.~~
- ~~(g) Owners or operators of multiple storage bins with combined stack emissions shall comply with the emission limits in subparagraph (a)1 and (a)2 of this paragraph.~~
- ~~(h) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup, no owner or operator shall cause to be discharged into the atmosphere any visible emissions from:~~
- ~~1. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.~~
 - ~~2. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.~~

~~(4) Reconstruction~~

- ~~(a) The cost of replacement of ore-contact surfaces on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under subparagraph 1200-3-16-.01(9)(b). Ore-contact surfaces are crushing surfaces; screen meshes, bars, and plates; conveyor belts; and elevator buckets.~~
- ~~(b) Under subparagraph 1200-3-16-.01(9)(b), the "fixed capital cost of new components" includes the fixed capital cost of all depreciable components (except components specified in subparagraph (a) of this paragraph) which are or will be replaced pursuant to all continuous programs of component replacement commenced within any 2-year period following November 6, 1988.~~

~~(5) Monitoring of Operations.~~

The owner or operator of any affected facility subject to the provisions of this rule which uses a wet scrubber to control emissions shall install, calibrate, maintain and operate the following monitoring devices:

- (a) A device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be certified by the manufacturer to be accurate within ± 250 pascals (± 1 inch water) gauge pressure and must be calibrated on an annual basis in accordance with manufacturer's instructions.
- (b) A device for the continuous measurement of the scrubbing liquid flow rate to the wet scrubber. The monitoring device must be certified by New Source Performance Standards Chapter 1200-3-16 the manufacturer to be accurate within ± 5 percent of design scrubbing liquid flow rate and must be calibrated on an annual basis in accordance with manufacturer's instructions.

(6) Test methods and procedures.

(a) Reference methods in subparagraph 1200-3-16-.01(5)(g), except as provided under subparagraph 1200-3-16-.01(5)(b), shall be used to determine compliance with the standards prescribed in paragraph (3) of this rule as follows:

- 1. Method 5 or Method 17 for concentration of particulate matter and associated moisture content;
- 2. Method 1 for sample and velocity traverses;
- 3. Method 2 for velocity and volumetric flow rate;
- 4. Method 3 for gas analysis;
- 5. Method 9 for measuring opacity from stack emissions and process fugitive emissions, and emissions from building vents;
- 6. Method 22 for measurement of visible fugitive emissions when determining compliance with the standard prescribed in subparagraph (3)(e) of this rule.

(b) The owner or operator shall determine compliance with the particulate matter standards in paragraph (3)(a) as follows:

- 1. The sampling probe and filter holder may be operated without heaters if the gas stream being sampled is at ambient temperature;
- 2. For gas streams above ambient temperature, the sampling train shall be operated with a probe and filter temperature high enough to prevent water condensation on the filter but no higher than 121°C (250°F);
- 3. The minimum sample volume shall be 1.7 dscm (60 dscf).

(c) When determining compliance with the standard prescribed under subparagraphs (3)(b) and (c) of this rule, the Technical Secretary shall adhere to the following stipulations in addition to these listed in Method 9 (the method specified in part (a)5 of this paragraph):

- 1. The minimum distance between the observer and the emission source shall be 4.57 meters (15 feet).
 - (i) The observer shall, when possible, select a position that minimizes interference from other fugitive emission sources (e.g. road dust). Note that the required observer position relative to the sun must be followed.

- ~~(ii) For affected facilities utilizing wet dust suppression for particulate matter control, a visible mist is sometimes generated by the spray. The water mist must not be confused with particulate matter emissions and is not to be considered a visible emission. When a water mist of this nature is present, the observation of the emissions is to be made at a point in the plume where the mist is no longer visible.~~
- ~~(iii) If emissions from two or more facilities continuously interfere so that the opacity of fugitive emissions from an individual affected facility cannot be read, the owner or operator may show compliance with the fugitive opacity standards in subparagraph (3)(b) and (c) of this rule by —
 - ~~(I) Causing the opacity of the combined emission stream from the facilities to meet the highest fugitive opacity standard applicable to any of the individual affected facilities contributing to the emissions stream or;~~
 - ~~(II) Separating emissions so that the opacity of emissions from each affected facility can be read to determine compliance with the applicable fugitive opacity limits specified for each facility in subparagraphs (3)(b) and (c) of this rule.~~~~
- ~~2. In determining compliance with the opacity of stack emissions from any baghouse that controls emissions only from an individual enclosed storage bin under paragraph (3)(f) of this rule, using Method 9 of this paragraph, the duration of the observations shall be 1 hour (ten 6-minute averages).~~
- ~~3. When determining compliance with the fugitive emissions standard for any affected facility described under paragraph (3)(b) of this rule, the duration of the observations by Method 9 of this paragraph may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:
 - ~~(i) There are no individual readings greater than 10 percent opacity; and~~
 - ~~(ii) There are no more than 3 readings of 10 percent for the 1-hour period.~~~~
- ~~4. When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under paragraph (3)(c) of this rule, the duration of the observations by Method 9 of this paragraph may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:
 - ~~(i) There are no individual readings greater than 15 percent opacity; and~~
 - ~~(ii) There are no more than 3 readings of 15 percent for the 1-hour period.~~~~
- ~~(d) Reserved.~~
- ~~(e) When determining compliance with the standard prescribed under subparagraph (3)(e) of this rule using Method 22, the minimum total observation period for each building shall be 75 minutes and each side of the building shall be observed for a minimum of 15 minutes. Performance tests shall be conducted while all affected facilities inside the building are operating.~~
- ~~(f) Reserved.~~
- ~~(g) If, after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting any rescheduled performance test required in this paragraph, the owner or operator of an affected facility shall submit a notice to the Technical Secretary at least 7 days prior to any rescheduled performance test.~~

~~(h) Initial performance tests by Method 9 of this paragraph under rule .01 of this Chapter and paragraph (6) of this rule are not required for:~~

- ~~1. Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.~~
- ~~2. Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.~~

~~(7) Reporting and recordkeeping~~

~~(a) Each owner or operator seeking to comply with subparagraph (1)(d) of this rule shall submit to the Technical Secretary the following information about the existing facility being replaced and the replacement piece of equipment.~~

~~1. For a crusher, grinding mill, bucket elevator, bagging operation, or enclosed truck or railcar loading station:~~

~~(i) The rated capacity in tons per hour of the existing facility being replaced, and~~

~~(ii) The rated capacity in tons per hour of the replacement equipment.~~

~~2. For a screening operation:~~

~~(i) The total surface area of the top screen of the existing screening operation being replaced, and~~

~~(ii) The total surface area of the top screen of the replacement screening operation.~~

~~3. For a conveyor belt:~~

~~(i) The width of the existing belt being replaced, and~~

~~(ii) The width of the replacement conveyor belt.~~

~~4. For a storage bin:~~

~~(i) The rated capacity in tons of the existing storage bin being replaced, and~~

~~(ii) The rated capacity in tons of replacement storage bins.~~

~~(b) Reserved.~~

~~(c) During the initial performance test of a wet scrubber, and daily thereafter, the owner or operator shall record the measurements of both the change in pressure of the gas stream across the scrubber and the scrubbing liquid flow rate.~~

~~(d) After the initial performance test of a wet scrubber, the owner or operator shall submit semiannual reports to the Technical Secretary of occurrences when the measurements of the scrubber pressure loss (or gain) and liquid flow rate differ by more than ± 30 percent from those measurements recording during the most recent performance test.~~

~~(e) The reports required under subparagraph (d) of this paragraph shall be postmarked within 30 days following the end of the second and fourth calendar quarters.~~

~~(f) The owner or operator of any affected facility shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in~~

~~paragraph (3) of this rule including reports of opacity observations made using Method 9 to demonstrate compliance with subparagraphs (3)(b), (c), and (f) and reports of observations using Method 22 to demonstrate compliance with subparagraph (3)(e).~~

- ~~(g) The owner or operator of any screening operation, bucket elevator, or belt conveyor that processes saturated material and is subject to paragraph (3)(h) and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the 10 percent opacity limit in paragraph(3)(b) and the emission test requirements of rule .01(6) and this rule. Likewise a screening operation, bucket elevator, or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the no visible emission limit in paragraph (3)(h).~~
- ~~(h) The general provisions requirement under rule .01(7)(a)2. for notification of the anticipated date of initial startup of an affected facility shall be waived for owners or operators of affected facilities regulated under this rule.~~
- ~~(i) A notification of the actual date of initial startup of each affected facility shall be submitted to the Technical Secretary.
 - ~~1. For a combination of affected facilities in a production line that begin actual initial startup on the same day, a single notification of startup may be submitted by the owner or operator to the Technical Secretary. The notification shall be postmarked within 15 days after such date and shall include a description of each affected facility, equipment manufacturer, and serial number of the equipment, if available.~~
 - ~~2. For portable aggregate processing plants, the notification of the actual date of initial startup shall include both the home office and the current address or location of the portable plant.~~~~

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

Chapter 1200-03-16 Table of Contents is amended by deleting the titles of rules 1200-03-16-.22 and 1200-03-16-.53 and replacing them with the word "Reserved" in both places.

* 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	✓				
Elaine Boyd	✓				
Dr. Brian W. Christman	✓				
Dr. Wayne T. Davis	✓				
Dr. Mary English	✓				
Stephen R. Gossett				✓	
Mayor Tommy Green				✓	
Dr. Shawn A. Hawkins				✓	
Helen Hennon	✓				
Richard M. Holland	✓				
John Roberts	✓				
Mayor 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 07/13/2011, 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: 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.

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

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 revisions to Rule 1200-03-16-.01 would not affect any facility currently considered as being a small business.

The revisions to Rules 1200-03-16-.22 and 1200-03-16-.53 could potentially affect any small business that would be subject to either of the regulations. For either situation the affect would be beneficial in that they would not be subject to obsolete state regulations in addition to the current federal regulations. To quantify the number of small businesses subject to either rule would require an exhaustive research effort as affected facilities may or may not be small businesses.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

There would be no reporting, recordkeeping, or other administrative costs associated with these amendments.

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

The revisions to Rule 1200-03-16-.01 would have no impact on small businesses and consumers.

The revisions to Rules 1200-03-16-.22 and 1200-03-16-.53 could prevent small businesses from being subject to both obsolete state and current federal regulations. There would be no affect on 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:

There are no alternatives available.

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

The provisions of Chapter 1200-03-16 are the state equivalent of federal regulations contained in 40 CFR 60. The deletion of Rules 1200-03-16-.01, 1200-03-16-.22 and 1200-03-16-.53 serve to allow the Division to utilize current federal language.

- (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.

Small business needs the benefits included in these amendments to prevent these entities from being subject to both obsolete state regulations and federal rules.

Impact on Local Governments

Pursuant to T.C.A. 4-5-220 and 4-5-228 "any rule to 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 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;

These rule revisions serve to allow the state to utilize current Federal regulations, as published in the Code of Federal Regulations, through its delegation of authority rather than subject affected facilities to both the current federal regulations and their obsolete state equivalent. Specifically, these rule revisions will serve to address the reporting of monitored emissions, coal preparation plants, and nonmetallic mineral processing plants.

- (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;

Chapter 1200-03-16 is the state equivalent of the Federal regulations found in Title 40, Part 60 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;

The rule revision will affect facilities that are required to report monitored emissions, coal preparation plants, and nonmetallic mineral processing plants. No comments were received concerning these proposed rule revisions.

- (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;

There is no anticipated fiscal impact.

- (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

- (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
Environment and Conservation

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel

Tennessee Dept. of Environment and Conservation
20th Floor L & C Tower
Nashville, Tennessee 37243-1548
615-532-0131
Alan.Leiserson@tn.gov

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

The Department is not aware of any.