

Notice of Rulemaking Hearing
Tennessee Department of Environment And Conservation
Division of Air Pollution Control

There will be a public hearing before the Technical Secretary of the Tennessee Air Pollution Control Board to consider the promulgation of an amendment to the Tennessee Air Pollution Control Regulations, and Title V Program pursuant to Tennessee Code Annotated, Section 68-201-105. The comments received at this hearing will be presented to the Tennessee Air Pollution Control Board for their consideration in regards to the proposed regulatory amendment. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-201 et. seq. and will take place in the 9th Floor Conference Room of the L & C Annex, located at 401 Church Street, Nashville, Tennessee 37243-1531 at 9:30 a.m. on the 18th day of November, 2005. Anyone desiring to make oral comments at this public hearing is requested to prepare a written copy of their comments to be submitted to the hearing officer at the public hearing.

Written comments not submitted at the public hearing will be included in the hearing record only if received by the close of business on Friday, November 18, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

Any individuals with disabilities who wish to participate in these proceedings (or to review these filings) should contact the Tennessee Department of Environment and Conservation to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be in person, by writing, telephone, or other means, and should be made no less than ten (10) days prior to November 18, 2005 or the date such party intends to review such filings, to allow time to provide such aid or service. Contact the Tennessee Department of Environment and Conservation ADA Coordinator, 21st Floor, 401 Church Street, Nashville TN 37243, (615) 532-0103. Hearing impaired callers may use the Tennessee Relay Service (1-800-848-0298).

If you have any questions about the origination of this rule change, you may contact Mr. Ron Culberson at (615) 532-0554. Copies of documents concerning this matter are available for review at the office of the Technical Secretary and at certain public depositories. For information about reviewing these documents, please contact Mr. Malcolm Butler, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531, telephone (615) 532-0600.

Summary of Proposed Change

Subparagraph 1200-3-26-.02(9)(d) is amended to set the major source fee rates for the accounting period July 1, 2005, through June 30, 2006. Also, the subparagraph is amended to include, beginning with the July 1, 2005, through June 30, 2006, accounting period, a minimum fee for major sources. This minimum fee would apply for a source if the calculation of the annual fee for that source using a fee rate results in a calculated fee of less than the specified minimum fee. The minimum fee is set for the July 1, 2005, through June 30, 2006, accounting period. In addition, the subparagraph is amended to notify sources that, as is done with the fee rates, this minimum fee may be adjusted for subsequent accounting periods to provide for collection of sufficient fees to fund the specified activities for those periods.

Chapter 1200-3-26
Administrative Fees Schedule

Amendment

Subparagraph (d) of paragraph (9) of rule 1200-3-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES is amended by striking the two citations to the period "July 1, 2004, through June 30, 2005," and inserting in their places "July 1, 2005, through June 30, 2006;" striking the value "\$3,500" in the third sentence and inserting in its place the value "\$4,500" and in the third sentence striking the two citations to the period "July 1, 2004, through June 30, 2005," and inserting in their places "July 1, 2005, through June 30, 2006;" so that, as amended, the subparagraph shall read:

- (d) The rate at which major source actual-based annual emission fees are assessed shall be \$34.00 per ton for the annual accounting period July 1, 2005, through June 30, 2006. The rate at which major source allowable-based annual emission fees are assessed shall be \$23.50 per ton for the annual accounting period July 1, 2005, through June 30, 2006. Notwithstanding any calculation of an annual fee using these rates, the annual fee that each major source is to pay shall not be less than \$4,500 for the annual accounting period July 1, 2005, through June 30, 2006. An annual revision to these rates and the minimum fee must result in the collection of sufficient fees to fund the activities identified in subparagraph 1200-3-26-.01(1)(c). These annual rates and the minimum fee shall be supported by the Division's annual workload analysis that is approved by the Board.

Authority: T.C.A. §68-201-105 and, 4-5-202 et. seq. Administrative History: Original rule filed June 1, 1990; effective July 16, 1990. Repealed and new rule filed July 5, 1994; effective September 18, 1994. Amendment filed March 13, 1997; effective May 27, 1997. Amendment filed March 23, 1998; effective June 6, 1998. Amendment filed March 26, 1999; effective June 9, 1999. Amendment filed April 17, 2000; effective July 1, 2000. Amendment filed December 21, 2000; effective March 6, 2001. Amendment filed January 14, 2002; effective March 30, 2002. Amendment filed May 23, 2003; effective August 6, 2003. Amendment filed May 17, 2004; effective July 31, 2004. Amendment filed March 29, 2005; effective June 12, 2005.

Legal contact and/or party who will approve final copy for publication:

Mr. Ron Culberson
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Contact for disk acquisition:

Mr. Malcolm H. Butler
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401 Church Street
Nashville, TN 37243-1531
(615) 532-0600

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Division of Air Pollution Control.

Barry R. Stephens

Barry R. Stephens
Director
Tennessee Division of Air Pollution Control

Subscribed and sworn to before me this the 30th day of September, 2005.

Deidre Warner

Notary Public

My commission expires on the _____ day of _____, _____.

My Commission Expires NOV. 24, 2007



This notice of rulemaking set out herein was properly filed in the Department of State on the 30 day of Sept, 2005.

Riley C. Darnell

Riley C. Darnell
Secretary of State

By: [Signature]

MEMO

FROM: Malcolm Butler
TO: Richard Arnold
DATE: September 27, 2005
SUBJECT: **Notice of Rulemaking Filing**

Please change the date and location for the following rule notices:

1200-3-3

1200-3-14-.04 CAIR SO₂ ANNUAL TRADING PROGRAM

1200-3-27-.10 CAIR NO_x ANNUAL TRADING PROGRAM

1200-3-26-.02 CONSTRUCTION AND ANNUAL EMISSION FEES

1200-3-27-.11 CAIR NO_x OZONE SEASON TRADING PROGRAM

from November 17 & 18, 2005, at the office of the Technical Secretary, Tennessee Air Pollution Control Board, 9th Floor, L & C Annex, 401 Church Street, Nashville, TN 37243-1531.

to will take place in the Multimedia Room of the Tennessee Tower, located at 312 8th Avenue North, Nashville, Tennessee 37243 at 9:30 a.m. on the 18th day of November, 2005.

**Thank you,
Malcolm**