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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Air Pollution Control Board
Division:	Air Pollution Control
Contact Person:	Mark A. Reynolds
Address:	Davy Crockett Tower 500 James Robertson Parkway Nashville, Tennessee
Zip:	37243
Phone:	(615) 708-0760
Email:	mark.a.reynolds@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	Davy Crockett Tower, 6th Floor 500 James Robertson Parkway Nashville, Tennessee 37243
Phone:	615-532-0200 Hearing-impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Ask.tdec@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Conference Room 1-A, 1st Floor
Address 2:	Davy Crockett Tower 500 James Robertson Parkway
City:	Nashville, Tennessee
Zip:	37243
Hearing Date:	08/13/2026
Hearing Time:	1:30 PM
	☒ CST/CDT ☐ EST/EDT

Alternate Hearing Option

Method 1:	You may also join electronically. Join link: https://tn.webex.com/tn/j.php?MTID=me1492754d98a6fc27309cb438dd1687d Webinar number: 2308 948 2781 Webinar password: kjFuJ7s7HY7 (55385777 when dialing from a phone or video system)
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Method 2:	Join by phone +1 615-747-4911 Webex Call-In +1-415-655-0001 US Toll Access code: 230 894 82781
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Additional Hearing Information:

If it is hard for you to read, speak, or understand English, TDEC may be able to provide translation or interpretation services free of charge. Please contact Ellen Sherril at (615) 532-0105 or tdec.titlevi@tn.gov for more information. Si le resulta difícil leer, hablar o entender inglés, TDEC puede proporcionar servicios de traducción o interpretación sin cargo. Comuníquese con Ellen Sherril at (615) 532-0105 o tdec.titlevi@tn.gov para obtener más información.

The Air Pollution Control Board (Board) proposes to amend its rules for Non-Title V sources to modify the construction permit application fee structure, increase the annual emissions fee, and increase the conditional major review fee. These amendments would apply to both traditional and general permits. Additionally, the Board is proposing a new fee for amendment requests to extend the expiration date of a construction permit for both Title V and Non-Title V sources. These amendments also clarify certain provisions of the fee rule. These amendments are necessary to ensure that fees adequately support the costs of the Non-Title V portion of Tennessee's air pollution control program.

A set of draft rules has been prepared for public review and comment. The draft rules may be accessed for review using at <https://www.tn.gov/environment/ppo-public-participation/ppo-public-participation/ppo-air.html>

Oral or written comments are invited at the hearing. In addition, comments may be submitted prior to or after the public hearing to: Department of Environment and Conservation, Division of Air Pollution Control, Davy Crockett Tower, 500 James Roberson Parkway, 7th Floor, Nashville, Tennessee 37243 or via email to Air.Pollution.Control@tn.gov. However, such written comments must be received by 4:30 PM Central Time, on August 13, 2026, to assure consideration. For further information, please contact Mark A. Reynolds at the above address or telephone number or by e-mail at mark.a.reynolds@tn.gov.

Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

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

Chapter Number	Chapter Title
1200-03-09	Construction and Operating Permits
Rule Number	Rule Title
1200-03-09-.03	General Provisions

Chapter Number	Chapter Title
1200-03-26	Administrative Fees Schedule
Rule Number	Rule Title
1200-03-26-.02	Construction and Annual Fees

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/publications/services/rulemaking-guidelines>.

Chapter 1200-03-09
Construction and Operating Permits

Amendments

Rule 1200-03-09-.03 General Provisions is amended by adding a new paragraph (9) immediately following paragraph (8) to read as follows:

- (9) The Technical Secretary may issue a permit amendment for the permit revisions listed in subparagraph (2)(t) of Rule 1200-03-26-.02.

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

Chapter 1200-03-26
Administrative Fees Schedule

Amendments

Part 1 of subparagraph (d) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

1. The applicable standards under Divisions 1200-03 and 0400-30;

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (t) of paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (t) "Permit amendment" is a permit revision that:
1. Corrects typographical errors;
 2. Identifies a change in the name, address, or phone number of any person identified in the permit, or makes a similar minor administrative change at the source;
 3. Requires more frequent monitoring or reporting by the permittee;
 4. Allows for a change of ownership or operational control of a source where the Technical Secretary determines that no other change in the permit is necessary, provided that a transfer of ownership permit application is filed consistent with the provisions of paragraph (6) of Rule 1200-03-09-.03;
 5. Incorporates into a true minor source or conditional major source operating permit the requirements of a construction permit issued pursuant to Rule 1200-03-09-.01;
 6. Extends the expiration date of a construction permit;
 7. Changes the name of a source or facility;
 8. Changes a deadline established in a permit;
 9. Adds or revises a monitoring parameter;
 10. Adds or revises limiting conditions including, but not limited to, operating hour limitations, throughput limitations, and emission limitations, for the purpose of reducing annual fees;

11. Adds a new source to an existing operating permit that was constructed under the terms of a construction permit;
12. Modifies the requirements of the permit in accordance with an issued construction permit; or
13. Makes other changes determined appropriate by the Technical Secretary that are not modifications.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Paragraph (2) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by adding a new subparagraph (w) immediately following subparagraph (v) to read as follows:

- (w) “Facility” means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), except the activities of any vessel. Pollutant-emitting activities are part of the same industrial grouping if they belong to the same “Major Group” described by the first two digits in the code as specified in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Paragraph (3) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by adding a new subparagraph (k) immediately following subparagraph (j) to read as follows:

- (k) References to “responsible official” in this chapter should not be interpreted as imposing personal financial liability on the designated responsible official to pay fees assessed under this chapter.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (a) of paragraph (4) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) A construction permit application is not considered complete unless:
 1. The application filing/processing fee has been paid in full. The application filing/processing fee is not refundable, except as provided in subparagraph (5)(f) of this rule. Any overpayment of the application filing/processing fee is applied to the annual emission fee as a credit;
 2. The source has paid all fees due to the Division; and
 3. The source has submitted a compliance schedule that is acceptable to the Technical Secretary if the source is required to have such a compliance schedule in its permit in accordance with paragraph (4) of Rule 1200-03-09-.02.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (a) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (a) Construction, Opt-Out, and Plantwide Applicability Limit (PAL) Permit Application Filing/Processing Fees
 1. Reserved.
 2. On and after July 1, 2024, a responsible official applying for the construction permit required by Rule 1200-03-09-.01, or an opt-out permit, must pay an application fee as follows:

- (i) Between July 1, 2024, and June 30, 2027, a responsible official of a minor source or a conditional major source must pay construction permit application fees set forth in subparagraph (g), Schedule A of this paragraph. The fee determined from subparagraph (g), Schedule A of this paragraph shall be calculated based on the definitions of AMER and anticipated maximum increase in emissions, as defined in subparagraphs (2)(u) and (v) of this rule. On or after July 1, 2027, a responsible official of a minor source or a conditional major source must pay a construction permit application fee of \$2,500.
 - (ii) A responsible official of a major source or a source subject to paragraph (11) of Rule 1200-03-09-.02 (hereinafter, "Paragraph 11 source") must pay a construction permit application fee of \$7,000.
 - (iii) Except as set forth in subpart (v) of this part, a responsible official applying for a Prevention of Significant Air Quality Deterioration permit as required by paragraph (4) of Rule 1200-03-09-.01 must pay a construction permit application fee of \$70,000.
 - (iv) Except as specified in subpart (v) of this part, a responsible official applying for a permit under the provisions of paragraph (5) of Rule 1200-03-09-.01, Growth Policy, must pay a construction permit application fee of \$70,000.
 - (v) A responsible official applying for a plantwide applicability limit (PAL) under the provisions of subparagraph (4)(s) of Rule 1200-03-09-.01 or part (5)(b)10- of Rule 1200-03-09-.01 must pay an application fee of \$10,000 per pollutant.
 - (vi) A responsible official of an existing Paragraph 11 source applying for an operating permit to opt out of being a Paragraph 11 source, as described in subparagraph (11)(a) of Rule 1200-03-09-.02, by limiting the potential to emit such that the potential emissions of all pollutants are below the major source applicability thresholds, as defined in part (11)(b)14- of Rule 1200-03-09-.02, must pay an application fee of \$18,000.
 - (vii) On or after January 1, 2029, a responsible official must pay a permit amendment application fee of \$500 to extend the expiration date of a construction permit issued in accordance with paragraph (1) of Rule 1200-03-09-.01.
3. Between July 1, 2024, and June 30, 2027, an applicant for a minor source or a conditional major source applying to make a change to an existing source or permit such that a new construction permit is required must pay a permit application fee as set forth in subparagraph (g), Schedule A of this paragraph. This fee is determined by the anticipated maximum increase in emissions, as defined in subparagraph (2)(v) of this rule, from the AMER of the previous construction permit for the source. On or after July 1, 2027, an applicant for a minor source or a conditional major source applying to make a change to an existing source or permit such that a new construction permit is required must pay a permit application fee of \$2,500.
4. (i) Until June 30, 2027, an owner or operator of a source that submits a notice of intent for coverage under a general permit serving as a construction permit shall pay a permit application fee equal to that determined in accordance with the subparagraph (g) of this paragraph, Schedule A fee corresponding to the applicant's AMER, unless an alternate construction permit application fee is stipulated in the table below. If Schedule A from subparagraph (g) of this paragraph is used to determine the permit application fee, it shall be determined by the anticipated maximum increase in emissions, as defined in subparagraph (2)(v) of this rule, from the AMER of the previous construction permit for the source.

General Permit Category	Construction and Modification Permit Application Fee

Perchloroethylene Dry and Petroleum Solvent Dry Cleaners	\$100
Concrete batch plants	\$100
Portable rock crushers	\$100
Asphalt plants	\$250
Air Curtain Incinerators	\$500

- (ii) On and after July 1, 2027, an owner or operator of a source that submits a notice of intent for coverage under a general permit serving as a construction permit shall pay a permit application fee of \$1,000 unless the source falls into one of the general permit categories listed below, in which case it must pay the applicable construction permit application fee listed in the below table.

General Permit Category	Construction and Modification Permit Application Fee
Area Source Perchloroethylene Dry Cleaning Facility	\$100
Area Source Petroleum Solvent Dry Cleaning Facility. Dry Cleaning Dryer with Refrigerated Condenser	\$100
Concrete Batch Plant Operation with silo(s), Fabric Filter Control. Emissions less than 10 tons per calendar year	\$1,000
Concrete Batch Plant Operation with silo(s), Fabric Filter Control. Emissions less than 79.9 tons per calendar year	\$1,000
Nonmetallic Mineral Crushing and Sizing Operation with Wet Suppression	\$1,000
Asphalt plants	\$2,500

5. All application filing/processing fees required by this subparagraph are due upon submission of the permit application.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Part 1 of subparagraph (b) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

1. Reserved.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subpart (i) of part 2 of subparagraph (b) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (i) For minor sources and conditional major sources that apply for a construction permit between July 1, 2024 and June 30, 2027, one-half of the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500. For minor sources and conditional major sources that apply for a construction permit on or after July 1, 2027, \$750.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (e) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (e) The Division must make a decision to issue a permit or deny a request for a permit in one of the categories listed in parts 1, 2, 3, 4, and 8 of this subparagraph and notify the applicant of that decision in accordance with the following timelines:
 - 1. Major source or Paragraph 11 source construction permit reviews must be completed in 180 days from receipt of a complete application unless a longer period is agreed to in writing by the applicant;
 - 2. Minor and conditional major source construction permit reviews must be completed within 115 days from receipt of a complete application, unless a longer period is agreed to in writing by the applicant;
 - 3. PAL reviews must be completed within 365 days from receipt of a complete application unless a longer period is agreed to in writing by the applicant;
 - 4. Operating permit reviews for an existing major source or Paragraph 11 source applying for an operating permit to opt out of being a major source or Paragraph 11 source by limiting the potential to emit such that they are below the major source applicability thresholds must be completed within 365 days from receipt of a complete application unless a longer period is agreed to in writing by the applicant;
 - 5. If a mutual agreement letter required by part (6)(b)1. of this rule or subparagraph (11)(a) of Rule 1200-03-09-.02 has been requested by the Division at least 14 days prior to a deadline specified in part 1, 2, 3, or 4 of this subparagraph, but is not received at least seven days prior to that deadline, the applicable deadline specified in part 1, 2, 3, or 4 of this subparagraph shall be seven days after receipt of the agreement letter;
 - 6. If a source is required to have a compliance schedule in their permit in accordance with paragraph (4) of Rule 1200-03-09-.02 and the need for the compliance schedule arises after an application was deemed complete, the deadlines specified in part 1, 2, 3, or 4 of this subparagraph shall be extended as follows:
 - (i) 21 days after receipt of a compliance schedule from the applicant that is acceptable to the Technical Secretary if the draft permit is not required to have a public comment period;
 - (ii) 60 days after receipt of a compliance schedule from the applicant that is acceptable to the Technical Secretary if the draft permit is subject to an opportunity for public comment, and no public hearing is held;
 - (iii) 60 days after receipt of a compliance schedule from the application that is acceptable to the Technical Secretary if the draft permit is subject to an opportunity for public comment and a public hearing is announced along with the opportunity for public comment on the draft permit; and
 - (iv) 90 days after receipt of a compliance schedule from the applicant that is

acceptable to the Technical Secretary if the draft permit is subject to an opportunity for public comment, a public hearing is requested during the public comment period, and the public hearing is held after the close of the public comment period;

7. In the event annual fees required by paragraphs (6) or (9) of this rule become past due after an application has been deemed complete, the deadlines specified in part 1, 2, 3, or 4 of this subparagraph shall be extended to 30 days following the Department's receipt of all past due payments; and
8. On or after January 1, 2029, permit amendments to extend the expiration date of a construction permit must be completed no more than 120 days from receipt of a complete application unless a longer period is agreed to in writing by the applicant.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (g) of paragraph (5) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (g) The appropriate permit filing/processing fee shall be determined by the applicant from the following schedules:

SCHEDULE A—
CONSTRUCTION PERMIT FEES FOR MINOR AND CONDITIONAL MAJOR SOURCES

Anticipated Maximum Emission Rate (AMER) or Anticipated Maximum Increase in Emissions	(Filing/Processing) Permit Fee
Less Than 10 Ton/Year	\$100
10 to < 100 Tons/Year	\$500
100 to < 250 Tons/Year	\$1,000
250 to < 500 Tons/Year	\$2,000
500 to < 1,000 Tons/Year	\$3,000
1,000 to < 5,000 Tons/Year	\$4,000
5,000 and Greater Tons/Year	\$5,000

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Part 1 of subparagraph (b) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

1. The minor source and conditional major source annual emission fee must be calculated using the sum of the allowable emissions of all regulated pollutants at a source. Upon mutual agreement of the responsible official and the Technical Secretary, a more restrictive regulatory requirement may be established to minimize the allowable emissions and thus the annual emission fee. The more restrictive requirement must be specified in the permit, and must include the method(s) used to determine compliance with the limitation(s). The documentation procedure to be followed by the source owner or operator must also be included to ensure that the limit is not exceeded. Exceedances of the mutual agreement limit will be considered by the Board as circumvention of the required annual emissions fee and a matter in which enforcement action must be pursued.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraphs (e), (f), (g), and (h) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees are amended by deleting them in their entirety and substituting instead the following:

- (e) Except for sources that have been issued a notice of coverage to be subject to a general permit issued in accordance with Rule 1200-03-09-.06, the appropriate annual emissions fee for minor and conditional major sources in operation on or after July 1, 1993, shall be calculated at an emission fee rate of \$18.75 per ton of allowable emissions of regulated pollutants at the time of the

fee assessment by the Division based on the current active permit(s). The annual emissions fee rate of \$18.75 per ton applies for fees due on or before October 1, 2027. The annual emissions fee rate shall be \$28.00 per ton of allowable emissions of regulated pollutants for annual emissions fees due on or after November 1, 2027. Sources with allowable emissions less than 10 tons will not be subject to this fee, provided that such source has not taken a limitation on their permit that would render them a conditional major source.

- (f) A responsible official of a source operating under a general permit shall pay an annual emissions fee stipulated in the following tables. If a general permit is issued that is not listed in one of the categories specified in the following tables, the annual fee will be determined based on the allowable emissions rate specified in the general permit, converted to tons per year, if necessary, and multiplied by the annual emissions fee rate specified in subparagraph (e) of this paragraph. For conditional major sources operating under general permits, the responsible official of the source shall pay the permit review fee set forth in the following tables. If a conditional major source operating under a general permit does not fall into one of the categories listed in the following tables, the responsible official of the source shall pay the permit review fee specified in subparagraph (k) of this paragraph. For these sources, the total allowable emissions specified in the general permit, converted to tons per year if necessary, shall be used to determine the appropriate allowable emissions category and corresponding permit review fee. These fees are due and payable by the date established in subparagraph (c) of this paragraph:

1. Annual emissions fees and permit review fees until October 1, 2027, shall be as follows:

General Permit Category	Combined Annual Emission Fee and Base Fee	Permit Review Fee
Perchloroethylene and Petroleum Solvent Dry Cleaners	\$0	\$0
Concrete Batch Plants with emissions less than 10 tons per calendar year	\$0	\$0
Concrete Batch Plants with emissions greater than or equal to 10 tons per calendar year	\$400	\$0
Portable rock crushers at True Minor Facilities	\$1,000	\$0
Portable rock crushers at Conditional Major Facilities	\$1,000	\$500
Asphalt Plants	\$1,000	\$500

2. Annual emissions fees and permit review fees due on or after November 1, 2027, shall be as follows:

General Permit Category	Annual Emission Fee	Permit Review Fee
Area Source Perchloroethylene Dry Cleaning Facility	\$0	\$0
Area Source Petroleum Solvent Dry Cleaning Facility. Dry Cleaning Dryer with Refrigerated Condenser	\$0	\$0
Concrete Batch Plant Operation with silo(s), Fabric Filter Control. Emissions less than 10 tons per calendar year	\$0	\$0
Concrete Batch Plant Operation with silo(s), Fabric Filter Control. Emissions less than 79.9 tons per	\$600	\$0

calendar year		
Nonmetallic Mineral Crushing and Sizing Operation with Wet Suppression	\$1,500	\$0
Asphalt Plants	\$1,500	\$2,000

(g) Reserved.

(h) Reserved.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraphs (j) and (k) of paragraph (6) of Rule 1200-03-26-.02 Construction and Annual Fees are amended by deleting them in their entirety and substituting instead the following:

(j) Reserved.

(k) Conditional major sources must pay an annual permit review fee in accordance with the tables below in addition to the annual emissions fees specified in subparagraph (e) of this paragraph. This fee is due and payable to the State of Tennessee according to Schedule I found in subparagraph (c) of this paragraph. When determining the permit review fee, the total allowable tons per year shall be calculated in accordance with subparagraph (b) of this paragraph except that carbon monoxide emissions shall be included.

1. Annual permit review fees due on or before October 1, 2027, shall be as follows:

Allowable Tons Per Year	Review Fee
0-50	\$250
50.1-100	\$500
100.1-250	\$1,000
250.1 and up	\$2,000

2. Annual permit review fees due on or after November 1, 2027, shall be as follows:

Allowable Tons Per Year	Review Fee
0-100	\$2,000
100.1 and up	\$4,000

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Part 5 of subparagraph (b) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

5. Reserved.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Part 1 of subparagraph (d) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

1. Notwithstanding the fee rates established by parts 2- and 4- of this subparagraph, a responsible official of any source subject to this paragraph shall pay an annual base fee which shall be calculated in accordance with subparts (i) through (viii) of this part. This base fee shall be paid in addition to the annual emissions fee established by subpart 2(iii) of this subparagraph.

(i) The base fee shall be determined by the number of federal air quality standards to which a major source or Paragraph 11 source is subject. The following federal air

quality standards shall be considered if the standards have been incorporated into a permit issued to the facility under the provisions of Chapter 1200-03-09 or have been incorporated into Chapter 0400-30-38 or Chapter 0400-30-39:

- (I) Standards of Performance for New Stationary Sources as codified in 40 C.F.R. part 60, excluding subparts A, B, Ba, C, Cb, Cc, Cd, Ce, Cf, AAA, DDDD, FFFF, MMMM, and UUUUa.
 - (II) National Emission Standards for Hazardous Air Pollutants as codified in 40 C.F.R. part 61, excluding subpart A.
 - (III) National Emissions Standards for Hazardous Air Pollutants as codified in 40 C.F.R. part 63, excluding subparts A, B, C, D, E, OO, PP, QQ, RR, SS, TT, UU, VV, and XX.
- (ii) If a facility is subject to 40 C.F.R. part 60 subpart IIII or JJJJ, or 40 C.F.R. part 63 subpart ZZZZ or CCCCCC and is only subject to that subpart for air contaminate sources that are not required to be included in a permit in accordance with paragraph (4) of Rule 1200-03-09-.04, then such subpart shall not be included when determining the number of federal air quality standards that a source is subject.
 - (iii) The base fee is determined in accordance with the following table:

Number of federal air quality standards	Base Fee
0	\$10,000
1	\$15,000
2 to 3	\$20,000
4 to 5	\$30,000
6 to 10	\$40,000
11 to 20	\$50,000
21 and up	\$75,000

- (iv) For any Air Curtain Incinerator subject to paragraph (11) of Rule 1200-03-09-.02 solely because it is subject to the provisions of 40 C.F.R. part 60 subpart CCCC, the base fee shall be \$3,000 rather than the amount specified in subpart (iii) of this part.
- (v) If a federal air quality standard allows compliance with one standard (e.g., standard B) in lieu of another standard (e.g., standard A) and the applicable permit for the facility states that the facility is required to comply with standard B in lieu of standard A, then only standard B is counted when tabulating the number of federal air quality standards used to determine the base fee.
- (vi) If a federal air quality standard requires a facility to comply with one standard (e.g., standard B) in lieu of another standard (e.g., standard A), then only standard B is counted when tabulating the number of federal air quality standards used to determine the base fee.
- (vii) 40 C.F.R part 63, subpart ZZZZ must be counted when tabulating the number of federal air quality standards used to determine the base fee if a facility includes one or more engines that are only subject to 40 C.F.R. part 63, subpart ZZZZ and those engines are not exempt from permitting by paragraph (4) of Rule 1200-03-09-.04.
- (viii) Any federal air quality standards applicable to a permitted source shall be counted when tabulating the number of federal air quality standards used to determine the base fee regardless of whether the source has commenced operation or not. If a source commences operation prior to receiving an air quality permit, any federal air quality standards applicable to the source shall be counted when determining the base fee, regardless of whether an air quality permit has been issued to the

source or not.

- (ix) If a federal air quality standard applies to a source at a facility that has ceased operation, that standard is counted when tabulating the number of federal air quality standards used to determine the base fee if the facility retains the air quality permit for the source.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

Subparagraph (f) of paragraph (9) of Rule 1200-03-26-.02 Construction and Annual Fees is amended by deleting it in its entirety and substituting instead the following:

- (f) In the case where a source is shut down such that it has operated only during a portion of the annual accounting period and the source's permits are forfeited to the Technical Secretary, the appropriate fee shall be calculated on a prorated basis over the period of time that the source was operated in the annual accounting period. The responsible official of a major source or Paragraph 11 source that is shut down, but wishes to retain its permits, shall pay a maintenance fee equivalent to 40% of the fee that would be charged had the responsible official determined to base the annual fee on allowable emissions. If the responsible official chooses this option in the midst of an annual accounting period, then the fee will be prorated according to the number of months that the source was in the maintenance fee status. However, in no case shall the annual fee be less than the base fee established in part (d)1 of this paragraph. The responsible official shall notify the Division no later than December 31 of the annual accounting period so that the Division will have sufficient time to adjust billing records for the maintenance fee status.

Authority: T.C.A. §§ 4-5-201 et seq, 68-201-101 et seq., and 68-203-101 et seq.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: June 4, 2026

Signature: _____

Name of Officer: Michelle W. Owenby

Title of Officer: Director of the Division of Air Pollution Control

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State