

**RULES
OF
THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF AIR POLLUTION CONTROL**

**CHAPTER 1200-03-26
ADMINISTRATIVE FEES SCHEDULE**

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1200-03-26-.01 TENNESSEE VISIBLE EMISSIONS EVALUATION COURSE FEES.

- (1) The effective date of the fee schedule in subparagraph (2)(b) of this rule shall be July 1, 2020. The fee schedule in subparagraph (2)(a) of this rule continues to apply until June 30, 2020.
- (2) Fee schedules.
 - (a) Until June 30, 2020, the following course fees apply:

Initial Certification Tennessee Applicant	\$125.00
Recertification Tennessee Applicant	\$95.00
Initial Certification Out-of-State Applicant	\$175.00
Recertification Out-of-State Applicant	\$125.00
 - (b) Beginning July 1, 2020, the following course fees apply:

Initial Certification	\$180.00
Recertification	\$150.00

Authority: T.C.A. §§ 4-5-201, et seq.; 68-201-101, et seq.; and 68-201-105. **Administrative History:** Original rule filed June 1, 1990; effective July 16, 1990. Repeal and new rule filed July 5, 1994; effective September 18, 1994. Amendments filed January 15, 2020; effective April 14, 2020.

1200-03-26-.02 CONSTRUCTION AND ANNUAL FEES.

- (1) Purpose.
 - (a) It is the purpose of this rule to establish fees for sources subject to permitting pursuant to Division 1200-03 sufficient to supplement existing state and federal funding that covers reasonable costs (direct and indirect) associated with the development, processing, and administration of the air pollution control program. This will provide for better quality evaluation of the impact of air emissions on the citizens of Tennessee, and timely permitting services for sources subject to permitting requirements.
 - (b) Such costs shall include, but not be limited to, costs associated with review of applications and reports, issuance of required permits and associated inspections of sources, unit observation, review and evaluation of monitoring results (stack and/or ambient), modeling, and costs associated with any necessary enforcement actions (excluding penalties assessed).

(Rule 1200-03-26-.02, continued)

- (c) Annual emission fees collected from major sources and all sources subject to paragraph (11) of Rule 1200-03-09-.02 shall be used to pay for the direct and indirect costs of:
1. Preparing generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;
 2. Reviewing and acting on any application for a permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;
 3. General administrative costs of running the permit program, including the supporting and tracking of permit applications, compliance certification and related data entry;
 4. Implementing and enforcing the terms of any 40 C.F.R. Part 70 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;
 5. Emissions and ambient monitoring;
 6. Modeling, analyses, or demonstrations;
 7. Preparing inventories and tracking emissions; and
 8. Providing direct and indirect support to sources under the Small Business Environmental Assistance Program.

(2) Definitions.

Unless specifically defined in this chapter, the definitions from Chapter 1200-03-02 will apply. All terms defined in this chapter apply only to the provisions of this chapter.

- (a) "Air contaminant" is particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combinations thereof.
- (b) "A source subject to fees (source)" is any and all sources of emission of air contaminants, whether privately or publicly owned or operated, that is required to obtain a permit.
- (c) "Annual accounting period" is a twelve (12) consecutive month period. For sources subject to paragraph (11) of Rule 1200-03-09-.02, the annual accounting period shall be either of the following: the calendar year (January 1 to December 31) or the state fiscal year (July 1 to June 30). For sources not subject to paragraph (11) of Rule 1200-03-09-.02, the annual accounting period is the twelve consecutive month period as specified in paragraph (6) of this rule.
- (d) "Allowable emissions" mean the emissions rate of a source calculated at full design capacity operating twenty-four (24) hours per day, every day of the annual accounting period or calculated at the operating time and/or other operating conditions specified in a legally enforceable permit, and the most stringent of the following:
1. The applicable standards under Division 1200-03;

(Rule 1200-03-26-.02, continued)

2. The emission rate specified in a legally enforceable permit condition established pursuant to Rule 1200-03-09-.01 including those with a future compliance date; or pursuant to Rule 1200-03-09-.02; or
 3. If no allowable emission rate is specified pursuant to part 1. or part 2. above, the actual emissions will equal the allowable emission rate solely for the purposes of fee computation. In no way is this item to be considered the setting of a binding emission limitation pursuant to the provisions of Chapter 1200-03-09. The actual emission rate will be calculated as the maximum actual emissions expected of full design capacity operating twenty-four (24) hours per day, every day of the annual accounting period, or expected at the operating time specified in a legally enforceable permit.
- (e) "Division" means the Tennessee Division of Air Pollution Control.
- (f) "Legally enforceable" means all limitations and conditions which are enforceable by the Technical Secretary, including those under this Division 1200-03, Division 0400-30, the State Implementation Plan, and any permit requirements established pursuant to Chapter 1200-03-09. For major sources and sources subject to paragraph (11) of Rule 1200-03-09-.02, legally enforceable also includes a limitation or condition that is enforceable by the United States Environmental Protection Agency or its administrator.
- (g) "Major source" means any source or group of sources located within a contiguous area, and under common control which is regulated by one of the following:
1. A source subject to the Prevention of Significant Deterioration (PSD) requirements, paragraph 1200-03-09-.01(4).
 2. A source subject to the requirements for nonattainment areas, subparagraph 1200-03-09-.01(5)(b) which must meet a lowest achievable emission rate (LAER) limitation.
 3. "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person [or persons under common control]) belonging to a single major industrial grouping and that are described in subparts (i), (ii), or (iii) of this definition. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.
 - (i) A major source under section 112 of the Federal Act which is defined as:
 - (I) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Federal Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other

(Rule 1200-03-26-.02, continued)

similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(II) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(ii) A major stationary source of air pollutants, as defined in section 302 of the Federal Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Federal Act, unless the source belongs to one of the following categories of stationary sources:

(I) Coal cleaning plants (with thermal dryers);

(II) Kraft pulp mills;

(III) Portland cement plants;

(IV) Primary zinc smelters;

(V) Iron and steel mills;

(VI) Primary aluminum ore reduction plants;

(VII) Primary copper smelters;

(VIII) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(IX) Hydrofluoric, sulfuric, or nitric acid plants;

(X) Petroleum refineries;

(XI) Lime plants;

(XII) Phosphate rock processing plants;

(XIII) Coke oven batteries;

(XIV) Sulfur recovery plants;

(XV) Carbon black plants (furnace process);

(XVI) Primary lead smelters;

(XVII) Fuel conversion plant;

(XVIII) Sintering plants;

(XIX) Secondary metal production plants;

(XX) Chemical process plants;

(Rule 1200-03-26-.02, continued)

- (XXI) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
 - (XXII) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (XXIII) Taconite ore processing plants;
 - (XXIV) Glass fiber processing plants;
 - (XXV) Charcoal production plants;
 - (XXVI) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
 - (XXVII) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Federal Act, but only with respect to those air pollutants that have been regulated for that category;
- (iii) A major stationary source as defined in part D of Title I of the Federal Act, including:
- (I) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Federal Act, that requirements under section 182(f) of the Federal Act do not apply;
 - (II) For ozone transport regions established pursuant to section 184 of the Federal Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;
 - (III) For carbon monoxide nonattainment areas (1) that are classified as "serious," and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and
 - (IV) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM-10.
- (h) "Minor source" means any source or group of sources located within a contiguous area, and under common control which is not a major or conditional major source for the purposes of this rule. However, for the sole purpose of emission fee calculation, affected sources subject to the acidic precipitation requirements of Title IV of the Federal Clean Air Act embodied at 42 U.S.C. §§ 7401 et seq. shall be considered minor sources subject to the provisions of paragraph 1200-03-26-.02(6) until the year 2000. At that time, the affected sources will become major sources subject to paragraph 1200-03-26-.02(9).

(Rule 1200-03-26-.02, continued)

- (i) "Regulated pollutant" means allowable emissions (and/or actual emissions for major sources) of 4,000 tons per year or less from a source for each of the following compounds or substances:
 - 1. Each pollutant regulated under Chapter 0400-30-38 Emission Standards for Hazardous Air Pollutants (excluding transitory asbestos from construction, demolition, and renovation).
 - 2. Each regulated pollutant from a source subject to the provisions of Chapter 0400-30-39 Standards of Performance for New Stationary Sources.
 - 3. Volatile Organic Compounds (VOC)
 - 4. Particulates
 - 5. For major sources, the following pollutants:
 - (i) Nitrogen oxides or any volatile organic compounds;
 - (ii) Any pollutant for which a national ambient air quality standard has been promulgated;
 - (iii) Any pollutant that is subject to any standard promulgated under section 111 of the Federal Act; provided, however, that any such pollutant shall not be a regulated pollutant solely because the pollutant is a constituent of greenhouse gases;
 - (iv) Deleted.
 - (v) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Federal Act, including sections 112(g), and (j), of the Act, including the following:
 - (I) Any pollutant subject to requirements under section 112(j) of the Federal Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Federal Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Federal Act; and
 - (II) Any pollutant for which the requirements of section 112(g)(2) of the Federal Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement except that carbon monoxide, any pollutant regulated as a Class I or Class II substance subject to a standard promulgated under Title VI of the Federal Clean Air Act or any pollutant regulated solely because it is subject to the provision of Section 112(r) of the Federal Clean Air Act shall not be included in the compilation of pollutants at part 1200-03-09-02(11)(b)19.
- 6. Sulfur Dioxide (SO₂)
- 7. Nitrogen Oxides (NO_x)

(Rule 1200-03-26-.02, continued)

8. Lead (Pb)
 9. Gaseous Fluorides expressed as Hydrogen Fluoride (HF)
 10. Carbon Monoxide (no charge)
 11. Hydrogen Chloride (HCl)
 12. Each hazardous air pollutant actually emitted or allowed to be emitted from a source subject to paragraph (11) of Rule 1200-03-09-.02.
- (j) “Construction” means for the purpose of this rule, any activities that require a source to obtain a construction permit under the provisions of Rule 1200-03-02-.01 and Rule 1200-03-09-.01.
- (k) Reserved.
- (l) “Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Federal Act, or the term “capacity factor” as used in Title IV of the Federal Act or the Federal regulations promulgated thereunder.
- (m) “Responsible official” means one of the following:
1. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (ii) The delegation of authority to such representative is approved in advance by the Technical Secretary;
 2. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 3. For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
 4. For affected sources:
 - (i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Federal Act or the regulations promulgated thereunder are concerned; and

(Rule 1200-03-26-.02, continued)

- (ii) The designated representative for any other purposes under Division Rules. However, a person other than the designated representative may serve as the responsible official for non Title IV activities.
- (n) "Federal Act" means the Clean Air Act, as amended, 42 U.S.C. §§ 7401, et seq. as amended by Public Law No. 101-549 (November 15, 1990).
- (o) "Affected source" shall have the meaning given to it in the federal regulations promulgated under Title IV of the Federal Act.
- (p) "EPA or the Administrator" means the Administrator of the EPA or his designee.
- (q) "Conditional major source" for the purpose of fee payments, means a source that would otherwise be considered a major source under potential to emit conditions if it were not for a mutually agreed upon, more restrictive permit limit than that prescribed by regulation or a more restrictive permit limitation upon operating hours and/or production rates than that which would otherwise be possible at the source.
- (r) "Permit review fee" is a fee charged to conditional major sources to cover the costs associated with insuring the source is operating below the major source emission thresholds. These costs include, but are not limited to, inspections of the source, and review of annual reports for this facility.
- (s) "Greenhouse gases" means the air pollutant defined in part 86.1818-12(a) of Chapter I of Title 40 of the Code of Federal Regulations as the aggregate group of the following six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- (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; or
 - 9. Adds or revises a monitoring parameter.

(Rule 1200-03-26-.02, continued)

- (u) “Anticipated maximum emission rate” (AMER) means the maximum rate of actual emissions, in tons per year, from all regulated air pollutants, as defined in part (11)(b)19. of Rule 1200-03-09-.02, emitted from all sources listed in a construction permit application, excluding sources that are not required to obtain a permit in accordance with Rule 1200-03-09-.04. Except as specified below, the responsible official shall calculate the AMER based on each source operating at its maximum actual hourly emission rate, as listed in the construction permit application, for 8,760 hours per year.

$$AMER = \sum_{i=1}^m \sum_{j=1}^n E_{i,j} \times h_j$$

Where:

- m = number of pollutants emitted by sources included in the application;
 n = total number of sources included in the application, excluding sources that are exempt from permitting in accordance with Rule 1200-03-09-.04;
 E = emission rate in pounds per hour; and
 h = hours per year (8,760 except as specified below).

For applications that do not list a maximum pound-per-hour emission rate for a particular pollutant or source, the responsible official shall use the potential emissions, in tons per year, as listed in the construction permit application. The responsible official may use a reduced emission rate or hours of operation if the same is limited by federal or state air quality regulation, limited by operational constraints within the process (i.e., a bottleneck), or the responsible official has requested a limitation of the same in the construction permit application. Emission of a greenhouse gas that is a regulated air pollutant solely because the pollutant is a constituent of greenhouse gases shall not be included when calculating the AMER. Emission of a hazardous air pollutant that is also a VOC or particulate matter shall be counted only as VOC or particulate matter. When calculating the AMER for particulate matter, the responsible official shall use the highest of the source’s PM, PM₁₀, or PM_{2.5} emission rate. For construction permit applications that include the retirement of existing sources or the reduction of emissions from existing sources, the AMER shall not include the emission reductions associated with such retirement or reduction of emissions.

- (v) “Anticipated maximum increase in emissions” means the AMER of the existing source following the change minus the anticipated maximum emission rate prior to the change.

(3) General Provisions.

- (a) A source must meet all provisions and limitations specified in the permit(s) for construction and operation of the source.
- (b) All annual fees must be paid in full by the due dates specified in subparagraph (6)(c) and paragraph (9) of this rule.
- (c) Any source exempted by Rule 1200-03-09-.04 is exempt from the annual emission fee requirements of this chapter, unless emissions from the exempt source are included in a facility-wide emissions limit. However, the emissions from any exempt source must comply with all rules and regulations of the Tennessee Air Pollution Control Board.
- (d) All construction fees required by paragraph (5) of this rule must be paid in full upon submission of the application.

(Rule 1200-03-26-.02, continued)

- (e) Any responsible official who disagrees with the calculation or the applicability of the fee may petition the Tennessee Air Pollution Control Board (Board) for a hearing. In order to perfect a hearing, a petition for a hearing together with the total amount of the fee due must be received by the Technical Secretary of the Board not later than fifteen (15) days after the due date. Such hearing shall be in accordance with contested case provisions set forth in Title 4, Chapter 5, T.C.A. If the annual emission fee paid was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the emission fee was paid.
 - (f) If a responsible official requests an operating permit that is later determined by the Division to be subject to the construction permit rule, the permit application submittal shall not be subject to the time lines in this rule until complete construction permit applications are submitted.
 - (g) Any responsible official impacted by the decision in subparagraph (f) of this paragraph who disagrees with such decision may petition the Tennessee Air Pollution Control Board for a hearing. The hearing shall be in accordance with contested case provisions as set forth in Title 4, Chapter 5, T.C.A. §§ 4-5-301 et seq.
 - (h) In the event a fee is paid for a construction permit and it is later determined that only an operating permit is needed or the source is insignificant or otherwise exempt from permitting, 100% of the fee will be forfeited for the permit review.
 - (i) Where more than one allowable emission limit is applicable to a regulated pollutant, the allowable emissions for the regulated pollutants shall not be double counted.
1. Major sources subject to the provisions of paragraph (9) of this rule shall apportion their emissions as follows to ensure that their fees are not double counted.
- (i) For fee purposes, hazardous air pollutants that are also in the family of volatile organic compounds or the family of particulate matter will be included in their respective family category when determining annual emission fees.
 - (ii) For fee purposes, hazardous air pollutants that are not in the family of volatile organic compounds or the family of particulate matter will be reported separately.
 - (iii) Each individual hazardous air pollutant is subject to the 4,000-ton cap provisions of subparagraph (2)(i) of this rule.
 - (iv) Major sources that wish to pay annual fees for PM₁₀ on an allowable emission basis may do so if they have a specific PM₁₀ allowable emission standard. If a major source has a total particulate emission standard but wishes to pay annual fees on an actual PM₁₀ emission basis, it may do so if the PM₁₀ actual emission levels are proven to the satisfaction of the Technical Secretary. The method to demonstrate the actual PM₁₀ emission levels must be made as part of the source's major source operating permit in advance in order to exercise this option. The PM₁₀ emissions reported under these options shall not be subject to fees under the family of particulate emissions. The 4,000-ton cap provisions of subparagraph (2)(i) of this rule shall also apply to PM₁₀ emissions.

(Rule 1200-03-26-.02, continued)

- (j) No construction fee, annual emission fee, or permit review fee under paragraph (1) of this rule shall be imposed for review of notices of intent for authorization under a permit-by-rule or issuance of a notice of authorization.
- (4) Complete Applications.
- (a) A construction permit application is not considered complete unless the application filing/processing fee has been paid in full. The application filing/processing fee is not refundable, except as provided in paragraph (5)(f) of this rule. Any overpayment of the application filing/processing fee is applied to the annual emission fee as a credit. The effective date of this provision is October 24, 1991.
 - (b) For the purposes of determining whether or not the Division has acted in the time frame established to process permit applications set forth in paragraph (5), the evaluation period shall not begin until a complete application has been filed in the Division of Air Pollution Control's Nashville office.
 - (c) The Division shall denote the date that all applications for construction permits are received in its Central office. Applications received after 4:30 p.m. local time will be considered as being received the next working day.
 - (d) Upon receipt of a construction permit application, the Division must examine it to ensure that it is complete within 30 days. If the application is found to be incomplete, parts 1. through 4. of this subparagraph apply. The 30 days completeness evaluation time period is extended to 90 days for minor and conditional major sources of the nonattainment pollutant or its precursor pollutants as identified in part (4)(b)47. of Rule 1200-03-09-.01 located within the boundary of a nonattainment area so designated by the Board and/or the United States Environmental Protection Agency.
 - 1. If an application for a construction permit is determined to be incomplete, the Division must notify the applicant in writing via certified mail of the finding with a brief explanation of the deficiencies. The application filing/processing fee shall be retained by the Division.
 - 2. After receiving notice from the Division that the application was incomplete, the applicant shall have 180 calendar days to correct the deficiencies. If properly corrected, the application will be processed and no additional fee is required. The permit will then be granted or denied in accordance with this chapter and Chapter 1200-03-09. If the deficiencies are not corrected within the 180-day correction period, the fee will be forfeited in its entirety to the Division and the Division will officially deny the permit based on the incomplete permit application. If the applicant re-applies, a new application/processing fee must be paid in full along with the re-application.
 - 3. It is the express intent of the Board that the 180-day permit application correction period is not to be construed by an applicant as permission to construct or modify a source without the permit required by Chapter 1200-03-09.
 - 4. Upon receipt of a corrected application revised pursuant to part 1., 2., or 3. of this subparagraph, the Division shall re-evaluate the application and notify the applicant of its finding as to whether or not the application is considered to be complete. If the application is still deemed incomplete the applicant has the remainder of the initial 180-day period to correct the deficiencies or forfeit the fee in its entirety. Unless a determination that a corrected application is not complete is made by the Division and communicated to the applicant via certified mail within 30 days of receipt, the corrected application shall be deemed to be

(Rule 1200-03-26-.02, continued)

complete for the purpose of starting the Division's permit processing deadline schedule. However, if additional information is still needed to process the permit, the applicant has a duty to furnish said information or face denial of the permit.

- (e) Revisions to a construction permit application to reflect changes in the design of the source or the materials to be processed therein will be accepted by the Division during the permit processing period. However, the deadline for evaluation as to issuance of a permit or denial of the request will restart upon each and every significant revision as though it were an entirely new permit.

(5) Construction Fees.

(a) Construction Permit and Opt-Out Permit Application Filing/Processing Fees

1. The fee rates of this subparagraph effective on July 1, 2022, continue to apply until July 1, 2024.
2. On and after July 1, 2024, a responsible official applying for the construction permit (i.e., construction as defined in subparagraph (2)(j) of this rule) required by Rule 1200-03-09-.01, or an opt-out permit, must pay a construction permit application filing/processing fee as follows:
 - (i) A responsible official of a minor source or a conditional major source must pay construction permit application fees as 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.
 - (ii) A responsible official of a major source or a source subject to paragraph (11) of this rule (hereinafter, "Paragraph 11 source") must pay a construction permit application fee of \$7,000.
 - (iii) Except as specified 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 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 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.

(Rule 1200-03-26-.02, continued)

3. On and after July 1, 2024, 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. The fee rates in this part in effect on July 1, 2022, continue to apply until July 1, 2024.
4. On and after July 1, 2024, an owner or operator of a source that submits 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 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 and Petroleum Solvent Dry Cleaners	\$100
Concrete batch plants	\$100
Portable rock crushers	\$100
Asphalt plants	\$250
Air Curtain Incinerators	\$500

5. All application filing/processing fees required by this subparagraph are due upon submission of the permit application.
- (b)
1. The fee rates required by this subparagraph effective July 1, 2022, continue until July 1, 2024.
 2. With the exception of changes received during the initial construction permit evaluation period (i.e., prior to the Division letter or email denoting application completeness), all revisions under subparagraph (4)(e) of this rule that result in an increase in allowable emissions sought by the applicant or an increase in actual emissions declared in the original application for a permit shall be subject to a fee equal to the following:
 - (i) For minor sources and conditional major sources, one-half of the Schedule A fee corresponding to the applicant's anticipated maximum emission rate, not to exceed \$500.
 - (ii) For Paragraph 11 sources, \$3,500.
 3. The fee required by subparts 2(i) and (ii) of this subparagraph is determined by the anticipated maximum increase in emissions from the anticipated maximum emission rate of the previous construction permit for the source.
- (c) Reserved.

(Rule 1200-03-26-.02, continued)

- (d) The Division must consider all applications for construction that are received from a source in the Division's Nashville office on the same date as a source submittal. The source submittal is subject to the applicable permit filing/processing fee.
- (e) The Division must make a decision to issue or deny a request for a permit in one of the categories listed in parts 1. through 4. of this subparagraph and notify the applicant of that decision in accordance with the following time-lines:
 - 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.
 - 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 seven days prior to a deadline specified in part 1., 2., 3., or 4. of this subparagraph, but is not received by 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 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.
 - (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, if a public hearing is requested during the public comment period, and the public hearing is held after the close of the public comment period.

(Rule 1200-03-26-.02, continued)

- (f) In the event that the Division fails to process the construction permit application within the time lines established in subparagraph (e) of this paragraph, the Division will refund the permit filing/processing fee to the applicant in full. The refund will be made within 30 days following the date that the deadline for a decision on that particular permit application was established. For refunds in excess of \$1,000, additional time to allow review and approval of the refund by the Office of the Attorney General shall be allowed.
- (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	(Filing/Processing) Permit Fee
Less Than 10 Tons/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

- (6) Annual Fees for Minor and Conditional Major Sources.
 - (a) A responsible official of a minor source and/or a conditional major source must pay an annual fee to the State of Tennessee. The annual fee shall be based on the source's allowable emissions as defined in subparagraph (2)(d) of this rule.
 - (b)
 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.
 2. To reduce the amount of the fee as provided in part 1. of this subparagraph, the responsible official must submit a letter to the Technical Secretary requesting reduced allowable emissions and providing the method or methods that will be used to ensure compliance with the requested limit or limits. This request must be received at least 90 days prior to the applicable due date of the annual fee. Any request received after that deadline may only apply to the fee for the following year and not for the year being invoiced.
 - (c) All minor and conditional major source annual fees are due and payable to the State of Tennessee in full according to Schedule I of this subparagraph. The county in which a source is located determines when the source's annual fee is due. If a source is located on contiguous property in more than one county, the county appearing earliest

(Rule 1200-03-26-.02, continued)

in the calendar year shall be used to determine the due date of the annual fee. Due to seasonal operations, cotton gin source annual fees are due and payable annually to the State of Tennessee by December 1 of each year regardless of the county in which the source is located. The fee must be paid to the State of Tennessee in full by the first day of the month that the fee is due. The Technical Secretary extends this due date by an appropriate period not to exceed 90 days where the source owner or operator's fee notice was mailed by the Department to an incorrect mailing address.

SCHEDULE I

Month the Annual Fee Is Due (Accounting Period)
Counties in the Monthly Grouping

January	Anderson, Bedford, Benton, Bledsoe, Blount, Bradley, and Campbell
February	Cannon, Carroll, Carter, Cheatham, Chester, Claiborne, Clay, and Cocke
March	Coffee, Crockett, Cumberland, Davidson, Decatur, DeKalb, Dickson, Dyer, and Fayette
April	Fentress, Franklin, Gibson, Giles, Grainger, Greene, and Grundy
May	Hamblen, Hamilton, Hancock, Hardeman, Hardin, Hawkins, Haywood, and Henderson
June	Henry, Hickman, Houston, Humphreys, Jackson, Jefferson, Johnson, Knox, Lake, Lauderdale, Lawrence, and Lewis
July	Lincoln, Loudon, McMinn, McNairy, Macon, and Madison
August	Marion, Marshall, Maury, Meigs, Monroe, Montgomery, Moore, and Morgan
September	Obion, Overton, Perry, Pickett, Polk, Putnam, and Rhea
October	Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, and Shelby
November	Smith, Stewart, Sullivan, Sumner, Tipton, Trousdale, Unicoi, and Union
December	Van Buren, Warren, Washington, Wayne, Weakley, White, Williamson, and Wilson

- (d) 1. A newly constructed minor or conditional major source beginning operation subsequent to the annual accounting period for the county in which it is located shall not be required to pay an annual fee for the remainder of the annual accounting period. A minor or conditional major source ceasing operations during the annual accounting period will not receive a refund for annual fees paid.
2. Sources issued a combination construction and operating permit in accordance with paragraph (12) of Rule 1200-03-09-.02 shall pay annual fees as if operation of the new or modified source began on the date of permit issuance. This part does not apply to sources for which construction and operation of the new source or modification began prior to receipt of a construction permit.
- (e) Except for sources that are covered under 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

(Rule 1200-03-26-.02, continued)

the fee assessment by the Division based on the current active permit(s). 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 as stipulated in subparagraph (e) of this paragraph based on the allowable emissions specified in the general permit unless different fee rates are stipulated in the following table. These fees are due and payable by the date established in subparagraph (c) of this paragraph:

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

- (g) Deleted.
- (h) Deleted.
- (i) The annual emission fee will be calculated on no more than 4,000 tons per year of each regulated pollutant. An annual emission fee will not be charged for carbon monoxide or for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.
- (j) Deleted.
- (k) Conditional major sources must pay an annual permit review fee in accordance with the table below in addition to the annual emission 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 allowable tons per year shall be calculated in accordance with subparagraph (b) of this paragraph except that carbon monoxide emissions shall be included.

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

- (7) Payment of Fees.

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- (a) All fees regulated by this chapter shall be payable to the State of Tennessee.
 - (b) Fees not paid, late fees, and returned checks are subject to the provisions of paragraph (8) of this rule.
 - (c) Returned checks for any reason (i.e. insufficient funds, account closed, etc.) are considered failure to pay until such time collected funds are forwarded to the State of Tennessee. Returned checks are subjected to additional handling charges.
 - (d) Annual fee payments and permit review fee payments shall be clearly identified with the "Emission Source Reference Number" or "Facility ID" specified in the source's permit(s) and the invoice number, if available, or by an alternative method proposed by the source and agreed to by the Technical Secretary. Major sources paying fees on more than one SIC code at their facility shall denote the SIC code on their check for the account upon which they are paying. Delivery of the payment shall be to the location prescribed by the Technical Secretary.
 - (e) When a fee overpayment has been made as a result of an error by the source, an owner or operator may seek a credit or refund for such fee overpayment within one year from the date on which the State of Tennessee received payment of the fee.
 - (f) Online payment can be made to the State of Tennessee for annual fees by following the established State of Tennessee online payment process. Online payments require the inclusion of the customer identification number and the invoice number, if available, to ensure proper crediting of payment.
- (8) Late Fees – Failure to Pay.
- (a) The Technical Secretary will not issue any permit or renewal of a permit to an applicant until all fees required by this chapter have been paid in full to the State of Tennessee.
 - (b) If any part of any fee imposed under this rule is not paid within 15 days of the due date, a late payment penalty of five percent of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of five percent of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within 15 days after the due date, shall bear interest at the maximum lawful rate from the due date to the date paid, compounded monthly; however, the total of the penalties and interest that accrue pursuant to this subparagraph shall not exceed three times the amount of the original fee.
 - (c) It is the express intent of the Tennessee Air Pollution Control Board that late payment fees or interest accrued on an unpaid fee are not to be viewed by the Technical Secretary as a mitigating factor in calculating a civil penalty for construction or operating without the permits required by Rule 1200-03-09-.01 and/or Rule 1200-03-09-.02.
- (9) Annual Fees for Major Sources and Sources Subject to Paragraph (11) of Rule 1200-03-09-.02.
- (a) 1. 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 an annual fee to the State of Tennessee. A major source or Paragraph 11 source is not subject to the minor and conditional major source annual fees of paragraph (6) of this rule on or after July 1, 1994. Prior to July 1, 2022, a major source or

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Paragraph 11 source paying major source annual fees pursuant to this paragraph (9) will not be subject to the construction permit fees of paragraph (5) of this rule for any additional construction occurring at the source as long as the source remains a major source or Paragraph 11 source. On or after July 1, 2022, all major sources and Paragraph 11 sources are subject to the construction permit fees of paragraph (5) of this rule.

2. Effective January 1, 2018, the following shall apply:

- (i) Sources choosing to pay annual fees on an allowable emissions basis pursuant to subparagraph (b) of this paragraph shall pay 100% of the fee due pursuant to subparagraph (d) of this paragraph:
 - (I) No later than April 1 of the year immediately following the annual accounting period for which the fee is due for sources paying on a calendar year basis pursuant to subparagraph (b) of this paragraph; or
 - (II) No later than April 1 of the current fiscal year for sources paying on a fiscal year basis pursuant to subparagraph (b) of this paragraph.
- (ii) Sources choosing to pay annual fees on an actual emissions basis or a combination of actual and allowable emissions basis and on a calendar year basis pursuant to subparagraph (b) of this paragraph shall pay 100% of the fee due pursuant to subparagraph (d) of this paragraph no later than April 1 of the year immediately following the annual accounting period for which the fee is due, except as allowed by part (g)3. of this paragraph.
- (iii) Sources choosing to pay annual fees on an actual emissions basis or a combination of actual and allowable emissions basis and on a fiscal year basis pursuant to subparagraph (b) of this paragraph shall pay an estimated 65% of the fee due pursuant to subparagraph (d) of this paragraph no later than April 1 of the current fiscal year. The remainder of the annual fee is due August 1 of each year, except as allowed by part (g)3. of this paragraph.

- (b) 1. On or before December 31 of the annual accounting period, the responsible official must submit to the Division in writing the responsible official's determination to pay the annual fee based on:
 - (i) Either a calendar year or state fiscal year; and
 - (ii) Actual emissions, allowable emissions, or a mixture of actual and allowable emissions of regulated pollutants.
- 2. If the responsible official does not declare a fee payment choice as provided in subparts 1.(i) or (ii) of this subparagraph, then the basis of the annual fee payment shall be the same as the responsible official's most recent choice of fee payment, or, if no such previous choice was made, the basis of the annual fee payment shall be that specified in the source's current major source operating permit.
- 3. If the responsible official wishes to restructure allowable emissions for a major source or Paragraph 11 source for the purpose of lowering the annual fee, then an application must be filed at least 90 days prior to December 31 of the annual accounting period as provided in subparagraph (g) of this paragraph.

(Rule 1200-03-26-.02, continued)

4. The responsible official of a newly constructed major source, Paragraph 11 source, or minor source modifying its operation such that the source becomes a major source or Paragraph 11 source shall pay an initial annual fee based on a calendar year and allowable emissions for the fractional remainder of the calendar year commencing upon the source's start-up. However, in no case shall the annual fee be less than the annual base fee established in part (d)1 of this paragraph. Prior to July 1, 2024, in no case shall the annual fee be less than the minimum fee established in subpart (d)2.(ii) of this paragraph effective on July 1, 2022.
 5. For purposes of the payment of annual fees due July 1, 2016, parts 1. and 2. of this subparagraph shall not apply. Annual fees due July 1, 2016, shall be based on the state fiscal year and the annual fee basis (actual emissions, allowable emissions, or a mixture) specified in a source's current major source operating permit. If a source does not have an effective major source operating permit on July 1, 2016, then the source's responsible official shall pay the annual fee based on the state fiscal year and allowable emissions.
- (c) Reserved.
- (d) 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 (iii) of this part. This base fee shall be paid in addition to the annual emission fee established by subpart 2.(iii) of this subparagraph. The fee rates required by this part effective July 1, 2022, continue to apply until July 1, 2024.
- (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:

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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

2. (i) For purposes of this part, an electric utility generating unit (EGU) means any steam electric generating unit or stationary combustion turbine that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW net-electrical output to any utility power distribution system for sale. Also, any steam supplied to a steam distribution system for the purpose of providing steam to a steam electric generator that would produce electrical energy for sale is considered in determining the electrical energy output capacity of the affected EGU.
- (ii) Notwithstanding the annual emission fee rates established by subpart (iii) of this part, the annual fee required to be paid by a responsible official of any source subject to this paragraph shall be no less than:
 - (I) \$5,500 for sources (Once in/Always in sources) subject to this paragraph solely due to the May 16, 1995 EPA memorandum entitled, "Potential to Emit for MACT Standards—Guidance on Timing Issues," from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS), to EPA Regional Air Division Directors, provided that the source has permitted allowable emissions below the major source thresholds found in part (11)(b)14. of Rule 1200-03-09-.02. If the source's permitted allowable emissions are not below those major source thresholds as of October 31 of the annual accounting period for which fees are due under this part, then item (II) of this subpart applies; and
 - (II) \$10,000 for all other sources subject to this paragraph for fees due on and after January 1, 2023.
- (iii) The emission fee rates applied to calculate the annual fee assessed pursuant to subparagraph (a) of this paragraph shall be as follows:
 - (I) Fee based on actual emissions: \$70.50 per ton for non-EGU sources and \$98.50 per ton for EGU sources; and
 - (II) Fee based on allowable emissions: \$48.50 per ton for non-EGU sources and \$68.00 per ton for EGU sources.
- (iv) The fees and fee rates enumerated in this subparagraph must be supported by the Division's annual workload analysis that is approved by the Board.
- (v) When subparts 1.(i) through (iii) of this subparagraph become effective, subpart (ii) of this part will no longer be applicable.

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3. The fees and fee rates specified in this subparagraph shall remain in effect until the effective date of an amendment to this subparagraph. Any revision to the fees and fee rates must result in the collection of sufficient fee revenue to fund the activities identified in subparagraph (1)(c) of this rule and must be supported by the Division's annual workload analysis that is approved by the Board.
 4. Notwithstanding the fee rates established by part 1. or 2. of this subparagraph, a responsible official of any source subject to this paragraph shall pay a Title V modification fee calculated as follows:
 - (i) For each minor permit modification issued in accordance with subpart (11)(f)5.(ii) of Rule 1200-03-09-.02 during the calendar year preceding the year in which the annual fee is due, the responsible official shall pay \$2,800.
 - (ii) For each significant modification issued in accordance with subpart (11)(f)5.(iv) of Rule 1200-03-09-.02 during the calendar year preceding the year in which the annual fee is due, the responsible official shall pay \$5,000.
 5. The Title V modification fee required by part 4. of this subparagraph shall be paid in addition to the annual emission fee established by subpart 2.(iii) of this subparagraph. The Title V modification fee is not required for complete minor permit modification and significant modification applications received prior to July 1, 2024.
- (e)
 1. An emission cap of 4,000 tons per year per regulated pollutant per major source SIC code shall apply to actual or allowable based emission fees. A major source annual emission fee will not be charged for emissions in excess of the cap(s) or for carbon monoxide.
 2. No annual fee under this paragraph (9) will be charged for emissions of a pollutant solely because the pollutant is a constituent of greenhouse gases.
 - (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 minimum annual fee established in subpart (d)2.(ii) 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.
 - (g) Responsible officials required to pay the major source or Paragraph 11 source annual fee pursuant to subparagraph (a) of this paragraph must conform to the following requirements with respect to fee payments:
 1.
 - (i) If a responsible official paying the annual fee based on allowable emissions wishes to restructure the allowable emissions of a major source or Paragraph 11 source for the purpose of lowering the annual fee, then upon

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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 fee. The more restrictive regulatory requirement, the method used to determine compliance with the limitation, and the documentation procedure to be followed by the major source or Paragraph 11 source to ensure that the limit is not exceeded must be included in the application and specified in a permit through either the permit modification processes of paragraph (11) of Rule 1200-03-09-.02, or the construction permit processes of Rule 1200-03-09-.01, or both. The more restrictive requirement shall be effective for purposes of lowering the annual fee upon agreement by both the responsible official and the Technical Secretary and for all other purposes shall be effective upon issuance of the permit, modification, or both.

- (ii) To reduce the amount of the fee as provided in subpart (i) of this part, the responsible official must file a complete permit modification or construction permit application with the Division at least 90 days prior to December 31 of the annual accounting period.
- 2. The responsible official shall file an analysis of actual emissions, allowable emissions, or both actual and allowable emissions, whichever is appropriate due to the basis of the annual fee payment, with the Technical Secretary on or before the date the fee is due pursuant to subparagraph (a) of this paragraph. The analysis shall summarize the emissions of all regulated pollutants at the air contaminant sources of the major source or Paragraph 11 source facility and shall be used to calculate the amount of the annual fee owed pursuant to subparagraph (a) of this paragraph.
 - (i) An annual fee based on both actual emissions and allowable emissions shall be calculated utilizing the 4,000 ton per year cap specified in subparagraph (2)(i) of this rule. In determining the tonnages to be applied toward the regulated pollutant 4,000 ton cap in a mixed base fee, the responsible official shall first calculate the actual emission-based fees for a regulated pollutant and apply that tonnage toward the regulated pollutant's cap. The remaining tonnage available in the 4,000 ton category of a regulated pollutant shall be subject to allowable emission-based fee calculations. Once the 4,000 ton per year cap has been reached for a regulated pollutant, no additional fee for that pollutant shall be required.
 - (ii) If the responsible official chooses to base the annual fee on actual emissions, then the responsible official must prove the magnitude of the source's emissions to the satisfaction of the Technical Secretary.
- 3.
 - (i) Responsible officials choosing to pay the annual fee based on actual emissions or a mixture of actual and allowable emissions may request an extension of time for filing the emissions analysis with the Technical Secretary. The extension may, for facilities paying fees on a calendar year basis, be granted by the Technical Secretary for up to 90 days after the fee is due pursuant to subparagraph (a) of this paragraph. The extension may, for facilities paying fees on a fiscal year basis, be granted by the Technical Secretary for up to 60 days after the fee is due pursuant to subparagraph (a) of this paragraph. The request for extension must be received by the Division no later than 4:30 p.m. on April 1 or the request for extension shall be denied. The request for extension to file must state the reason for the request and provide an adequate explanation. An estimated annual fee payment of no less than 65% of the annual fee must accompany the

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request for extension to avoid penalties and interest on the underpayment of the annual fee. The remaining balance due must accompany the emission analysis. If there has been an overpayment, the responsible official may request a refund in writing to the Division or the amount of the overpayment may be applied as a credit toward the next annual fee.

- (ii) A responsible official choosing to pay the annual fee based on allowable emissions is not eligible for the extension of time authorized by subpart (i) of this part.

(h) Reserved.

(i) Reserved.

Authority: T.C.A. §§ 4-5-201, et seq.; 4-5-202, et seq.; 68-201-101, et seq.; 68-201-105, et seq.; and 68-203-103, et seq. **Administrative History:** Original rule filed June 1, 1990; effective July 16, 1990. Repeal 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. Amendment filed April 13, 2006; effective June 27, 2006. Amendment filed June 30, 2006; effective October 27, 2006. Amendment filed October 17, 2006; effective December 31, 2006. Amendment filed April 16, 2007; effective June 30, 2007. Amendment filed April 16, 2008; effective June 30, 2008. Amendment filed February 25, 2009; effective May 11, 2009. Amendment filed July 13, 2009; effective October 11, 2009. Amendment filed March 30, 2010; effective June 28, 2010. Amendments filed November 1, 2010; to have become effective January 30, 2011. On January 24, 2011, the Government Operations Committee voted to stay the amendments for 60 days; new effective date March 31, 2011. Amendment filed November 30, 2010; to have become effective February 28, 2011. On January 24, 2011, the Government Operations Committee voted to stay the amendment for 60 days; new effective date April 30, 2011. Amendment filed March 16, 2011; effective June 14, 2011. Amendments filed February 22, 2012; effective May 22, 2012. Amendment filed January 8, 2013; to have become effective April 8, 2013. However, the Government Operations Committee filed a 25-day stay of the rule's effective date; new effective date May 3, 2013. Amendment filed January 8, 2014; effective April 8, 2014. Amendments filed January 6, 2016; effective April 5, 2016. Amendments filed March 7, 2016; effective June 5, 2016. Amendments filed May 17, 2017; effective August 15, 2017. Amendments filed October 10, 2017; effective January 8, 2018. Amendments filed January 11, 2018; effective April 11, 2018. Amendments filed January 15, 2020; effective April 14, 2020. Amendments filed December 20, 2021; effective March 20, 2022. Amendments filed September 29, 2022; effective December 28, 2022. Amendments filed December 4, 2023; effective March 3, 2024. Amendments filed September 16, 2024; effective December 15, 2024.

1200-03-26-.03 REPEALED.

Authority: T.C.A. §§ 4-5-201, et seq.; 68-1-1301; and 68-25-105. **Administrative History:** Original rule filed March 5, 1993; effective April 19, 1993. Amendment filed March 18, 1994; effective June 1, 1994. Amendment filed November 4, 1996; effective January 18, 1997. Repeal filed June 26, 2001; effective September 7, 2001.