Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 06-08-10
Rule ID(s): 4746
File Date: 06/10/2010
Effective Date: 09/08/2010

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission: Environment & Conservation
Division: Air Pollution Control
Contact Person: Jabari D. Martin
Address: 9th Floor L & C Annex
401 Church St.
Nashville, TN
Zip: 37243-1531
Phone: (615)532-0582
Email: Jabari.martin@tn.gov

Revision Type (check all that apply):
x Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	**Chapter Title**
1200-03-18	Volatile Organic Compounds
Rule Number	**Rule Title**
1200-03-18-.32	Cutback and Emulsified Asphalt

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://state.tn.us/sos/rules/1360/1360.htm)

Chapter 1200-03-18
Volatile Organic Compounds

Amendment

Subparagraph (b) of paragraph (3) of rule 1200-03-18-.32 Cutback and Emulsified Asphalt is amended by deleting the following language at the end of the sentence (any volatile organic compound (VOC)) and adding the following language (more than 3 percent by volume of volatile organic compounds (VOC) which evaporate at 260 °C (500 °F) as determined by ASTM Method D244-92.) so that, as amended, subparagraph (b) shall read:

(b) April 1 through October 31, no person shall cause, allow, or permit the manufacturing, mixing, storage, or use of emulsified asphalt that contains more than 3 percent by volume of volatile organic compounds (VOC) which evaporate at 260 °C (500 °F) as determined by ASTM Method D244-92.

Authority: T.C.A. § 68-201-105.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Atchison	✓				Michael Atchison
Tracy R. Carter	✓				Tracy R. Carter
J. Ronald Bailey	✓				J. Ronald Bailey
Wayne T. Davis	✓				Wayne T. Davis
Mary English	✓				Mary R English
Stephen Gossett	✓				Stephen Gossett
Helen Hennon	✓				Helen S. Hennon
Richard Holland	✓				Richard Holland
Joe C McKinnon	✓				Joe C McKinnon
Donald Mull					Donald Mull
Dale Swafford				✓	
Greer Tidwell, Jr.	✓				Greer Tidwell Jr
Larry Waters	✓				Larry Waters

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board on September 10, 2008, and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 06/30/08

Rulemaking Hearing(s) Conducted on: (add more dates). 08/25/08

Date: April 16, 2010

Signature: Barry R. Stephens

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

Title of Officer: Technical Secretary

MALCOLM H. BUTLER
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

Subscribed and sworn to before me on: April 16, 2010

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 6, 2013

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

R E Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

6-8-10
Date

Department of State Use Only

Filed with the Department of State on: 6/10/10

Effective on: 9/8/10

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2010 JUN 10 PM 12: 26
SECRETARY OF STATE
PUBLICATIONS

rm32(3)(b).doc

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

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

Regulatory Flexibility Addendum
Pursuant to T.C.A. § 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

There are no small businesses subject to this proposed rule amendment.

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

The additional costs of this amendment are insignificant.

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

There are no small businesses subject to this proposed rule amendment.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

No alternatives are available or needed.

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

This revised rule is the most common rule for the majority of states and county agencies.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

There are no small businesses subject to this proposed rule amendment.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The current rule 1200-03-18-.32 prohibits the manufacture or use of any asphalt containing any VOC from April 1 through October 31. This amendment prohibits asphalt containing more than 3% VOCs, which was the intent of the rule.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

This rule amendment is being adopted under the authority of T.C.A § 68-201-105.

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The asphalt/paving industry is most affected by this rule. There were no comments from the general public during the public comment period.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

There would not be any significant increase or decrease in any state or local government revenues and expenditures.

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Jabari D. Martin
TDEC-APC
401 Church Street
9th Floor L & C Annex
Nashville, TN 37243-1531

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director
Tennessee Dept. of Environment and Conservation

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

Office of General Counsel
Tennessee Dept. of Environment and Conservation
401 Church Street
20th Floor L & C Tower
Nashville, TN 37243-1531

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

The Division is not aware of any.

Department of State
Division of Publications
312 Rosa L. Parks Avenue, 8th Floor Tennessee Tower
Nashville, TN 37243
Phone: 615-741-2650
Fax: 615-741-5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: REDLINE
Rule ID(s): _____
File Date: _____
Effective Date: _____

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment & Conservation
Division:	Air Pollution Control
Contact Person:	Jabari D. Martin
Address:	9th Floor L & C Annex 401 Church St. Nashville, TN
Zip:	37243-1531
Phone:	(615)532-0582
Email:	Jabari.martin@tn.gov

Revision Type (check all that apply):

x Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only **ONE** Rule Number/RuleTitle per row)

Chapter Number	**Chapter Title**
1200-03-18	Volatile Organic Compounds
Rule Number	**Rule Title**
1200-03-18-.32	Cutback and Emulsified Asphalt

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://state.tn.us/sos/rules/1360/1360.htm)

Chapter 1200-03-18
Volatile Organic Compounds

Amendment

Subparagraph (b) of paragraph (3) of rule 1200-03-18-.32 Cutback and Emulsified Asphalt is amended by deleting the following language at the end of the sentence (any volatile organic compound (VOC)) and adding the following language (more than 3 percent by volume of volatile organic compounds (VOC) which evaporate at 260 °C (500 °F) as determined by ASTM Method D244-92.) so that, as amended, subparagraph (b) shall read:

(b) April 1 through October 31, no person shall cause, allow, or permit the manufacturing, mixing, storage, or use of emulsified asphalt that contains ~~any volatile organic compound (VOC)~~ more than 3 percent by volume of volatile organic compounds (VOC) which evaporate at 260 °C (500 °F) as determined by ASTM Method D244-92.

Authority: T.C.A. § 68-201-105.

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

The Division is not aware of any.