

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 09-18-14  
Rule ID(s): 5799  
File Date: 9-19-14  
Effective Date: 12-18-14

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Lacey J. Hardin
<b>Address:</b>	15th Floor, William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0545
<b>Email:</b>	<a href="mailto:Lacey.Hardin@tn.gov">Lacey.Hardin@tn.gov</a>

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

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

Chapter Number	Chapter Title
1200-03-18	Volatile Organic Compounds
Rule Number	Rule Title
1200-03-18-.02	General Provisions and Applicability

(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>)

Amendment

Chapter 1200-03-18  
Volatile Organic Compounds

Paragraph (8) of Rule 1200-03-18-.02 General Provisions and Applicability is amended by deleting it in its entirety and substituting instead the following:

- (8) The owner or operator of any facility in Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, or Wilson County which has actual emissions from stationary sources of 25 tons or more of volatile organic compounds (VOC's) and/or nitrogen oxides during a calendar year shall report to their permitting authority information and data concerning these emissions. This information and data shall be in the form prescribed by the Technical Secretary, and shall be submitted before March 31 of the year following the calendar year for which the information and data is reported. The first report shall be for the 1993 calendar year, and shall be submitted before March 31, 1994. Each report shall be signed by an official of the company, certifying that the information and data contained in the report is accurate to the best knowledge of the individual certifying the report.

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

\* 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)
J. Ronald Bailey				✓	
Thomas Beehan	✓				<i>Thomas Beehan</i>
John Benitez				✓	
Elaine Boyd	✓				<i>Elaine Boyd</i>
Karen Cisler	✓				<i>Karen Cisler</i>
Wayne T. Davis				✓	
Stephen Gossett	✓				<i>Stephen Gossett</i>
Shawn A. Hawkins				✓	
Helen Hennon				✓	
Richard Holland	✓				<i>Richard Holland</i>
John Roberts	✓				<i>John A. Roberts</i>
Larry Waters	✓				<i>Larry Waters</i>
Jimmy West	✓				<i>James S. West</i>
Alicia Wilson	✓				<i>Alicia Wilson</i>

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 05/14/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/28/14

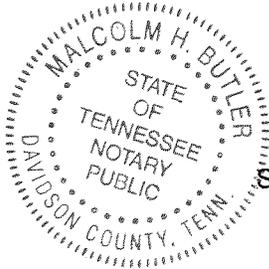
Rulemaking Hearing(s) Conducted on: (add more dates). 04/22/14

Date: 5/16/14

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: 5/16/2014

Notary Public Signature: Malcolm H. Butler

My commission expires on: 1-11-2017

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

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.  
Attorney General and Reporter

9-18-14

Date

**Department of State Use Only**

Filed with the Department of State on: 9-19-14

Effective on: 12-18-14

Tre Hargett

Tre Hargett  
Secretary of State

RECEIVED  
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SECRETARY OF STATE

## Public Hearing Comments

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

Comment: A commenter pointed out that the first sentence of the proposed new paragraph (8) of Rule 1200-03-18-.02 should be amended as follows to comply with the federal Clean Air Act 42 U.S. CODE § 7511A – PLAN SUBMISSIONS AND REQUIREMENTS:

"The owner or operator of any facility in Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, or Wilson County which has actual emissions from stationary sources of 25 tons or more of volatile organic compounds (VOC's) and/or nitrogen oxides during a calendar year shall report to their permitting authority information and data concerning these emissions."

Response: The Board agrees and the sentence has been revised as suggested.

**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.

This rulemaking amendment to Paragraph (8) of Rule 1200-03-18-.02 General Provisions and Applicability is exempt from the provisions of the Regulatory Flexibility Act of 2007, Acts 2007, § 6 of Public Chapter 464 because it is federally mandated. The rule subject to this amendment is part of the requirements of 42 U.S.C. § 7511a of the Federal Clean Air Act, which is the source of the requirement for Tennessee to “require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of oxides of nitrogen and volatile organic compounds from that source.”

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department anticipates that this amended rule will have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 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;

Paragraph (8) of Rule 1200-03-18-.02 is being revised to include the 2008 Ozone Knoxville Non-Attainment Area (the "Area"). The Area is comprised of Knox, Blount, and Anderson Counties. The Area is currently designated as a non-attainment area but the counties were inadvertently omitted from the language of the rule. The amendment also relocates the phrase "nitrogen oxides" for clarification in response to the public hearing comment. The Air Pollution Control Division intends to submit a redesignation request for the Area to be designated as attainment; however, before redesignation can occur the language of the rule must reflect the federal requirement that all sources located in a county designated non-attainment are required to report emissions of nitrogen oxides and/or volatile organic compounds greater than 25 tons per year. In addition, the rule is being revised to allow affected sources in counties that operate their own air pollution control program (local program) to send these reports to their permitting authority rather than the Technical Secretary of the Tennessee Air Pollution Control Board. This change will allow the local program to receive this data from their sources.

- (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 amendment is being promulgated under the authority of T.C.A. § 68-201-101 et seq., and is consistent with 42 U.S.C. § 7511a of the Federal Clean Air Act.

- (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;

All sources of air pollution that emit volatile organic compounds and/or nitrogen oxides in amounts of 25 tons per year or more that are located in a county designated or previously designated non-attainment for ozone and operating a local program are affected by this rule. No comments were received from any affected sources.

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

The Tennessee Air Pollution Control Board 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 will be no significant impact in state and local government revenues and expenditures resulting from the promulgation of these amendments.

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

Lacey J. Hardin  
Division of Air Pollution Control  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 15th Floor  
Nashville, Tennessee 37243

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

Emily Urban  
Assistant General Counsel  
Office of General Counsel

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

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 2nd Floor  
Nashville, Tennessee 37243  
(615) 532-8685  
[Emily.Urban@tn.gov](mailto:Emily.Urban@tn.gov)

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

The Tennessee Air Pollution Control Board is not aware of any.

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# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Air Pollution Control
<b>Contact Person:</b>	Lacey J. Harding
<b>Address:</b>	15th Floor, William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 532-0545
<b>Email:</b>	<a href="mailto:Lacey.Hardin@tn.gov">Lacey.Hardin@tn.gov</a>

**Revision Type (check all that apply):**

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 New  
 Repeal

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

Chapter Number	Chapter Title
1200-03-18	Volatile Organic Compounds
Rule Number	Rule Title
1200-03-18-.02	General Provisions and Applicability

(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>)

Amendment

Chapter 1200-03-18  
Volatile Organic Compounds

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- (8) The owner or operator of any facility in Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, or Wilson County which has actual emissions from stationary sources of 25 tons or more of volatile organic compounds (VOC's) and/or nitrogen oxides during a calendar year shall report to ~~the Technical Secretary~~ their permitting authority information and data concerning these emissions and ~~nitrogen oxide emissions~~. This information and data shall be in the form prescribed by the Technical Secretary, and shall be submitted before March 31 of the year following the calendar year for which the information and data is reported. The first report shall be for the 1993 calendar year, and shall be submitted before March 31, 1994. Each report shall be signed by an official of the company, certifying that the information and data contained in the report is accurate to the best knowledge of the individual certifying the report.

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

\* 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)
J. Ronald Bailey Involved with Institution of Higher Learning on air pollution evaluation and control				X	
Thomas Beehan Working on Municipal Government	X				
John Benitez Licensed Physician with experience in health effects of air pollutants				X	
Elaine Boyd Commissioner's Designee, Dept. of Environment and Conservation	X				
Karen Cisler Environmental Interests	X				
Wayne T. Davis Conservation Interests				X	
Stephen Gossett Working for Industry with technical experience	X				
Shawn A. Hawkins Working in field related to Agriculture or Conservation				X	
Helen Hennon Registered Professional Engineer				X	
Richard Holland Working for Industry with technical experience	X				
John Roberts Small Generator of Air Pollution representing Automotive Interests	X				
Larry Waters County Mayor	X				
Jimmy West Commissioner's Designee, Dept. of Economic and Community Development	X				
Alicia Wilson Working in management in Private Manufacturing	X				

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 05/14/2014, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 02/28/14

Rulemaking Hearing(s) Conducted on: (add more dates). 04/22/14

Date: May 16, 2014

Signature: \_\_\_\_\_

Name of Officer: Barry R. Stephens

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

---

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

\_\_\_\_\_  
Robert E. Cooper, Jr.  
Attorney General and Reporter

\_\_\_\_\_  
Date

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Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

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Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

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- (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;

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

The Tennessee Air Pollution Control Board 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 will be no significant impact in state and local government revenues and expenditures resulting from the promulgation of these amendments.

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

Lacey J. Hardin  
Division of Air Pollution Control  
William R. Snodgrass Tennessee Tower  
312 Rosa L. Parks Avenue, 15th Floor  
Nashville, Tennessee 37243

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

Emily Urban  
Assistant General Counsel  
Office of General Counsel

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

Office of General Counsel  
Tennessee Department of Environment and Conservation  
William R. Snodgrass Tennessee Tower  
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[Emily.Urban@tn.gov](mailto:Emily.Urban@tn.gov)

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