

**Department of State
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN 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: 11-08-10
Rule ID(s): 4861
File Date: 11/09/2010
Effective Date: 02/07/2011

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:	Vicki L. Lowe
Address:	9 th Floor L & C Annex 401 Church Street Nashville, Tennessee
Zip:	37243-1531
Phone:	(615) 532-6811
Email:	Vicki.Lowe@tn.gov

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
1200-03-29	Light-Duty Motor Vehicle Inspection and Maintenance
Rule Number	Rule Title
1200-03-29-.02	Definitions
1200-03-29-.04	Exemption from Motor Vehicle Inspection Requirements

(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 1200-03-29
Light-Duty Motor Vehicle Inspection and Maintenance

Amendments

Rule 1200-03-29-.02 Definitions is amended by adding two new paragraphs (50) and (51) to definitions which shall read:

- (50) Low-speed vehicle means a four-wheeled vehicle manufactured as a non-road vehicle with a gross vehicle weight of less than 3,000 pounds, capable of twenty miles per hour (20 mph) but not capable of exceeding twenty-five miles per hour (25 mph) on a paved level surface.
- (51) Medium-speed vehicle means any four-wheeled vehicle manufactured as a non-road vehicle with a gross vehicle weight of less than 3,000 pounds, capable of thirty miles per hour (30 mph) but not capable of exceeding thirty-five miles per hour (35 mph) on a paved level surface.

Paragraph (1) of Rule 1200-03-29-.04 Exemption from Motor Vehicle Inspection Requirements is amended by adding subparagraph (h) so that, as amended, subparagraph (h) shall read:

- (h) low-speed and medium-speed vehicles

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)
Michael Atchison	X				
Dr. J. Ronald Bailey	X				
Tracy R. Carter	X				
Dr. Brian Christman	X				
Dr. Wayne T. Davis	X				
Dr. Mary English				X	
Stephen R. Gossett	X				
Mayor Tommy Green				X	
Dr. Shawn A. Hawkins	X				
Helen Hennon				X	
Richard M. Holland	X				
Dale Swafford				X	
Greer Tidwell, Jr.	X				
Mayor Larry Waters	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 12/09/2009, 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: 08/27/09

Rulemaking Hearing(s) Conducted on: (add more dates). 10/20/09



Date: December 23, 2009

Signature: Barry R. Stephens

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

Title of Officer: Technical Secretary

Subscribed and sworn to before me on: December 23, 2009

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.

Robert E. Cooper, Jr.
Attorney General and Reporter
11-7-10

Date

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Filed with the Department of State on: 11/09/2010

Effective on: 02/07/2011

Tre Hargett
Tre Hargett
Secretary of State

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SECRETARY OF STATE
PUBLICATIONS

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: No comments were received at public hearing.

Response: N/A

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:

None.
- (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:

None.
- (3) A statement of the probable effect on impacted small businesses and consumers:

None.
- (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:

None.
- (5) A comparison of the proposed rule with any federal or state counterparts:

EPA's regulations do not address low and medium vehicles since they are considered off road vehicles.
- (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.

Not Applicable.

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 does not anticipate that these amended rules 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 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;

Rule 1200-03-29-.02 Definitions is being amended by adding definitions for low and medium speed vehicles. Rule 1200-03-29-.04 Exemption from Motor Vehicle Inspection Requirements is being amended to exempt low and medium speed vehicles from having to pass vehicle emissions testing requirements. These type vehicles are manufactured as non-road vehicles and therefore are not subject to an emissions test.

- (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;

These revisions were proposed to provide clarification of rule in counties which require vehicle emission testing prior to registration renewal.

- (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;

Private individuals who own non-road low and medium speed vehicles are most directly affected by this amendment.

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

The 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;

None

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

Vicki L. Lowe
Division of Air Pollution Control
9th Floor L&C Annex
Nashville, Tennessee 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
Alan.Leiserson@tn.gov
Legal Services Director
Department of Environment and Conservation

- (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

Department of Environment and Conservation
20th Floor L & C Tower
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Board is not aware of any.

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Chapter 1200-03-29
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Stephen R. Gossett	X				
Mayor Tommy Green				X	
Dr. Shawn A. Hawkins	X				
Helen Hennon				X	
Richard M. Holland	X				
Dale Swafford				X	
Greer Tidwell, Jr.	X				
Mayor Larry Waters	X				

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Date: December 23, 2009

Signature: _____

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

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