

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 10-29-23  
Rule ID(s): 9954  
File Date: 10/30/2023  
Effective Date: 1/28/2024

## Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

<b>Agency/Board/Commission:</b>	Safety
<b>Division:</b>	Driver Control
<b>Contact Person:</b>	Elizabeth Stroecker
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**Revision Type (check all that apply):**

☐ Amendment  
☐ New  
☒ Repeal  
☐ Content based on previous emergency rule filed on \_\_\_\_\_  
☐ Content is identical to the emergency rule

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1340-01-08	RULES OF PROCEDURE FOR HEARING CONTESTED CASES
Rule Number	Rule Title
1340-01-08-.01	Definitions
1340-01-08-.02	Order of Proceedings
1340-01-08-.03	Declaratory Rulings
1340-01-08-.04	Effect of Declaratory Rulings
1340-01-08-.05	Pre-Hearing Conference
1340-01-08-.06	Pleadings
1340-01-08-.07	Default and Uncontested Proceedings
1340-01-08-.08	Commencement of Action
1340-01-08-.09	Discovery
1340-01-08-.10	Deposition Pending Action
1340-01-08-.11	Persons Before Whom Depositions May Be Taken
1340-01-08-.12	Stipulations Regarding the Taking of Depositions
1340-01-08-.13	Depositions upon Oral Examination
1340-01-08-.14	Effect of Errors and Irregularities in Deposition

1340-01-08-.15	Discovery and Production of Documents and Things for Inspection, Copying or Photographing
1340-01-08-.16	Admission of Facts and of Genuineness of Documents
1340-01-08-.17	Refusal to Make Discovery: Consequences
1340-01-08-.18	Subpoena
1340-01-08-.19	Evidence in Hearing
1340-01-08-.20	Examination and Cross-Examination
1340-01-08-.21	Record of Excluded Evidence
1340-01-08-.22	Affirmation in Lieu of Oath
1340-01-08-.23	Record

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

Chapter 1340-01-08, Rules of Procedure for Hearing Contested Cases, are being repealed pursuant to T.C.A. § 4-3-2009.

\* 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)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by The Department of Safety (board/commission/other authority) on 09/11/2023 (mm/dd/yyyy), 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: 06/06/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 08/07/2023

Date: 09/11/23

Signature: Elizabeth R. Stroecker

Name of Officer: Elizabeth Stroecker

Title of Officer: Director of Legislation & Assistant General Counsel

Agency/Board/Commission: Department of Safety

Rule Chapter Number(s): 1340-01-08

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.

  
Jonathan Skrmetti  
Attorney General and Reporter

10/24/23  
Date

#### Department of State Use Only

Filed with the Department of State on: 10/30/2023

**RECEIVED**

Effective on: 1/28/2024

Oct 30 2023, 10:12 am

Secretary of State  
Division of Publications

  
Tre Hargett  
Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.  
There was not anyone present at the public hearing, either in person or virtually.

**Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The repeal of this rule does not impact small businesses as this rule is redundant.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

The repeal of this rule does not impact local government as this rule is redundant.

### 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;

This rule is being repealed as it is redundant of another rule the Department uses for contested cases. The Department will use the more relevant rule 1340-02-01.

- (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;

The Department has the authority to promulgate and repeal these rules pursuant to T.C.A. § 4-3-2009.

- (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 Department is not aware of any persons or organizations that the repeal of this rule would impact as the contested rules for the Department are still intact under 1340-02-01.

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

The Department is not aware of any attorney general opinions or judicial rulings that directly relate to this rule.

- (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;

N/A.

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

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

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- (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

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

The Department is not aware of anything that the committee should know about these rules.