

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 08-04-12  
Rule ID(s): 5279  
File Date: 8/2/12  
Effective Date: 1/29/13

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

<b>Agency/Board/Commission:</b>	Environment and Conservation
<b>Division:</b>	Remediation
<b>Contact Person:</b>	Wayne Gregory
<b>Address:</b>	11 <sup>th</sup> Floor L & C Tower 401 Church Street Nashville, Tennessee
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 253-5420
<b>Email:</b>	<a href="mailto:Wayne.Gregory@tn.gov">Wayne.Gregory@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
1200-01-19	Standards for Testing and Cleaning Quarantined Clandestine Drug Manufacturing Sites
Rule Number	Rule Title
1200-01-19-.01	Standards for Determining Living Space Safe for Human Use
1200-01-19-.02	Use of Qualified Professionals for Sampling and Cleanup

(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>)

#### Repeals

Chapter 1200-01-19 Standards for Testing and Cleaning Quarantined Clandestine Drug Manufacturing Sites is repealed.

Authority: T.C.A. §§ 68-212-501, et seq. and 4-5-201 et seq.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner on 06/19/2012 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 6-19-12

Signature: Robert J. Martineau, Jr.

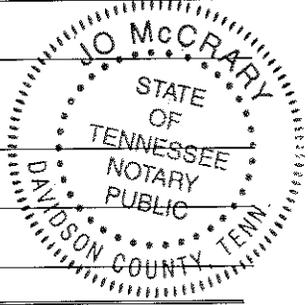
Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner

Subscribed and sworn to before me on: June 19, 2012

Notary Public Signature: Jo McCrary

My commission expires on: May 3, 2014



All proposed 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  
7-31-12  
Date

**Department of State Use Only**

Filed with the Department of State on: 8/2/12

Effective on: 1/29/13

Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED  
2012 AUG -2 AM 10:36  
SECRETARY OF STATE  
PLANNING DIVISION

**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.

- (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 is no impact on small business. Chapter 1200-01-19 is a duplicate of Chapter 0400-15-02 and this rulemaking is intended to repeal Chapter 1200-01-19 to eliminate this duplication.

- (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.

There are no projected additional reporting, recordkeeping or administrative costs as a result of this rulemaking.

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

There is no adverse affect on small businesses as a result of this rulemaking.

- (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.

The Department is unaware of alternatives to the proposed rules.

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

There is no exact match with any federal or state counterparts.

- (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.

Due to the administrative nature of this rulemaking, small businesses could not be exempt from this rulemaking.

### **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)

There is no impact on local governments resulting from this rulemaking.

**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;

Chapter 1200-01-19 is a duplicate of Chapter 0400-15-02 and this rulemaking is intended to repeal Chapter 1200-01-19 to eliminate this duplication.

- (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;

T.C.A. § 68-212-501

- (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 entities regulated under T.C.A. §§ 68-212-501.

- (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;

None.

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

Wayne Gregory  
11<sup>th</sup> Floor L & C Tower  
401 Church Street  
Nashville, TN 37243  
(615) 253-5420

- (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, Office of General Counsel  
Tennessee Department of Environment and Conservation  
20<sup>th</sup> Floor, L & C Tower  
Nashville, TN 37243-1548

- (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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Tennessee Department of Environment and Conservation  
20<sup>th</sup> Floor, L & C Tower

Nashville, TN 37243-1548  
[Alan.Leiserson@tn.gov](mailto:Alan.Leiserson@tn.gov)

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

The Department is not aware of any.

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1200-01-19-.01	Standards for Determining Living Space Safe for Human Use
1200-01-19-.02	Use of Qualified Professionals for Sampling and Cleanup

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## Repeals

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### Table of Contents

~~1200-01-19-.01 Standards for Determining Living Space Safe for Human Use~~

~~1200-01-19-.02 Use of Qualified Professionals for Sampling and Cleanup~~

~~1200-01-19-.01 Standards for Determining Living Space Safe for Human Use~~

~~(1) Methamphetamine shall not exceed 0.1 microgram/100 cm<sup>2</sup> on any surfaces.~~

~~(2) Volatile Organic Compounds shall not exceed 1 ppm in air as measured under normal inhabitable ventilation conditions.~~

~~(3) If it is determined that lead or mercury were used in the lab process, the standard for cleanup of lead on any surface shall not exceed 40µg/ft<sup>2</sup>, and mercury shall not exceed 50 nanograms/m<sup>3</sup> for indoor air. Lead acetate and mercuric chloride are used in the Amalgam process that uses phenylpropanone (P2P). This process is not commonly used, but may occasionally be encountered.~~

~~1200-01-19-.02 Use of Qualified Professionals for Sampling and Cleanup.~~

~~(1) Samples shall be collected and interpreted by a professional certified by the Commissioner as being able to perform the services of an industrial hygienist. Any person holding a certification from the American Board of Industrial Hygienists as a Certified Industrial Hygienist is deemed certified by this rule as being able to perform these services. Other persons who have the qualifications as industrial hygienists under T.C.A. § 62-40-101 may make a written request to the Commissioner to be included on the list of persons or entities to perform the services of industrial hygienists for the purposes of these rules.~~

~~(2) Clean up of properties shall be performed by a professional or company certified by the Commissioner as being able to perform the services of cleaning up sites used to manufacture methamphetamines. Any person holding a certification from the American Board of Industrial Hygienist as a Certified Industrial Hygienist is deemed certified by this rule as being able to perform clean up services at these sites. Other persons may make a written request to the Commissioner seeking certification to perform these services.~~

Authority: T.C.A. §§ 68-212-501, et seq. and 4-5-201 et seq.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner on 06/19/2012, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: June 19, 2012

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

Name of Officer: Robert J. Martineau, Jr.

Title of Officer: Commissioner

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

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

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

---

All proposed 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

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

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

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

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