

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-01
CLASSIFICATION AND MANAGEMENT OF PESTICIDES**

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0080-09-01-01 SCOPE.

- (1) Classification of pesticides under this chapter applies for construction and interpretation of the Tennessee Insecticide, Fungicide, and Rodenticide Act and the aerial application of pesticides law, compiled at Tennessee Code title 43, chapter 8; the Tennessee Application of Pesticides Act of 1978, compiled at Tennessee Code title 62, chapter 21; and all rules of the department.
- (2) Unless the context requires otherwise, pesticide without reference to a particular pesticide classification means any general use or restricted use pesticide.

Authority: T.C.A. §§ 4-3-203, 43-8-106, 43-8-302, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-01-02 CLASSIFICATION OF PESTICIDES.

- (1) General use pesticide is any pesticide other than a restricted use pesticide.
- (2) Restricted use pesticide is any pesticide identified as a restricted use pesticide either on its label approved by EPA or its registration issued by the department.

Authority: T.C.A. §§ 4-3-203, 43-8-106, 43-8-302, and 62-21-118. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-01-03 PESTICIDE MANAGEMENT AND DISPOSAL.

- (1) Pesticides shall be maintained in a manner consistent with their labeling.
- (2) Unless otherwise provided by their labeling,
 - (a) Pesticides shall be maintained in containers or structures that are liquid tight; protected from damage by weather, personnel, and equipment; and secured from accidental spills, leakage, and washing;
 - (b) Pesticide spills, leakage, and washing shall be cleaned on the same day they occur unless a delay is necessary to protect human health. Cleanup must be conducted in a manner reasonably calculated to maximize pesticide recovery and to protect the public health and safety; and,
 - (c) Pesticide transfers from one container to another must be attended at all times by a person certified by the department for the application of pesticides.

(Rule 0080-09-01-.03, continued)

- (3) The requirements of this rule will be interpreted and applied in a manner consistent with the applicable pesticide label, federal guidance regarding pesticide use and registration, and 40 C.F.R. §165, Subparts A and E.

Authority: T.C.A. §§ 4-3-203, 43-8-106, 43-8-302, and 62-21-118. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-02
SERVICE CATEGORIES AND TESTING**

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0080-09-02-01 SCOPE.

This chapter applies to any person who applies for or is required to have a pesticide license or certification issued under the Tennessee Insecticide, Fungicide, and Rodenticide Act or the Tennessee Application of Pesticides Act of 1978.

Authority: T.C.A. §§ 4-3-203, 43-8-106, 43-8-302, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-02-02 DEFINITIONS.

- (1) Terms in this chapter share those meanings of terms set forth in the Tennessee Application of Pesticides Act of 1978, T.C.A. §§ 62-21-101, et seq.
- (2) When used in the Act or this chapter, unless the context requires otherwise:
 - (a) Act means the Tennessee Application of Pesticides Act of 1978, compiled at T.C.A. §§ 62-21-101, et seq.;
 - (b) Agricultural means related to pasture or lands used in the production of food or fiber crops. This definition applies exclusively to rules under this chapter and not to any other law or rule interpreted or enforced by the department;
 - (c) Agricultural seed means the seed of grass, forage, cereal, fiber crops or other kinds of seed commonly recognized as agricultural seed or mixtures of agricultural seed;
 - (d) Commercial certification and words of similar import mean any pesticide certification other than private applicator certification;
 - (e) Full-time means a yearly average of at least 35 hours per week;
 - (f) Fumigation means the application of gas even if the substance that is applied is originally a solid or liquid that later turns to gas upon being dispensed;
 - (g) Person means an individual, partnership, corporation, or any other form of legal entity;
 - (h) Pest or disease means any insect, rodent, fungi, bacteria, plant life, or biotic agent that is injurious either to the environment or to the agricultural, horticultural, silvicultural, or other interests of the state. Pest or disease includes insect pests and plant diseases as defined under the Tennessee Plant Pest Act, compiled at T.C.A. §§ 43-6-101, et seq., and may also include any form of animal or plant life, any infectious plant disease, or

(Rule 0080-09-02-.02, continued)

any plant disorder that manifests symptoms or behavior determined by a federal or state pest prevention agency to be characteristic of infectious disease;

- (i) Reciprocity means certification from another state that the department recognizes as equivalent in effect to certification standards under this chapter, pursuant to a formal agreement with the reciprocating state;
- (j) Related course of study means agriculture, biology, chemistry, forestry, horticulture, entomology, plant pathology, plant science, or similar course of study conferred by an accredited institution of higher education;
- (k) Vegetable seed means the seed of crops generally grown in gardens or farms and sold under the name of a vegetable seed.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-02-.03 LICENSE CATEGORIES.

- (1) Agricultural – Ground Equipment (AGE). An AGE license is required for any person who supervises branch operations for custom pesticide applications to control agricultural pests other than by fumigation. This license is not applicable to control of pests covered under other specific license categories. Certification required: Agricultural Pest Control (C01). Alternative requisites to experience/education: HLT license, HRI license, WEC license, or certification through the Certified Crop Advisor program offered by the American Society of Agronomy.
- (2) Aquatic Pest Control (APC). An APC license is required for any person who supervises branch operations for custom pesticide applications to control aquatic plants or algae. Certification required: Aquatic Pest Control (C05).
- (3) Bird Control (BDC). A BDC license is required for any person who supervises branch operations for custom pesticide applications to control birds. Certification required: Industrial, Institutional, Structural, and Health-Related Pest Control (C07).
- (4) Forest Pest Control (FPC). An FPC license is required for any person who supervises branch operations for custom pesticide applications to control tree pests and diseases in locations used for preservation of forest lands or production of timber and related products. Certification required: Forest Pest Control (C02).
- (5) Fumigation – Soil (FUS). An FUS license is required for any person who supervises branch operations for custom pesticide applications to control pests by soil fumigation. Certification required: Agricultural Pest Control (C01).
- (6) Fumigation – Structural (FUM). An FUM license is required for any person who supervises branch operations for custom pesticide applications to control pests by fumigation on sites other than soil. A FUM or WDO license is also required for any person who makes a custom application of pesticides for control of wood destroying beetles. Certification required: Industrial, Institutional, Structural, and Health-Related Pest Control (C07).
- (7) General Pest and Rodent Control Pesticide License (GRC). A GRC license is required for any person who directly supervises or applies pesticides at sites covered under T.C.A. § 62-21-124 (e.g. buildings used for food preparation, human lodging, religious instruction, or education) and any person who supervises branch operations for custom pesticide applications to control pests generally known to invade a structure. This category includes control of pests both in and around structures, e.g. fire ants, fleas, and ticks in residential and

(Rule 0080-09-02-.03, continued)

- commercial lawns. Certification required: Industrial, Institutional, Structural, and Health-Related Pest Control (C07).
- (8) Horticulture – Interior (HRI). An HRI license is required for any person who supervises branch operations for custom pesticide applications to control plant pests in the interior of non-agricultural settings such as conservatories, shopping malls, and the like. An HRI license is not required for applications in greenhouses. Certification required: Ornamental and Turf Pest Control (C03). Alternative requisites to experience/education: AGE license, HLT license, or WEC license.
- (9) Horticulture – Lawn and Turf (HLT). An HLT license is required for any person who supervises branch operations for custom pesticide applications to control pests in non-agricultural landscape not immediately associated with a structure, e.g. disease in residential and commercial lawns; pests or disease in institutional gardens; and fire ants, fleas, and ticks in parks, athletic fields, and golf courses. This category does not include applications for control of pests in or around structures. Certification required: Ornamental and Turf Pest Control (C03). Alternative requisites to experience/education: AGE license, HRI license, WEC license, or certification through the Certified Crop Advisor program offered by the American Society of Agronomy.
- (10) Microbial Pest Control (MPC). An MPC license is required for any person who supervises branch operations for custom pesticide applications to control microorganisms, including specific bacteria or viruses. Certification required: Microbial Pest Control (C14).
- (11) Mold Remediation (MRC). An MRC license is required for any person who supervises branch operations for custom pesticide applications to control mold and fungus in structures. Certification required: Industrial, Institutional, Structural, and Health-Related Pest Control (C07) or Microbial Pest Control (C14).
- (12) Pest Control Consultant (PCC). A PCC license is required for any person who supervises demonstrations of pesticide products or consultations for the use of pesticides. A PCC license does not authorize private or custom applications of pesticide for which another certification or license is required. Certification required: Demonstration, Research, and Regulatory Pest Control (C10).
- (13) Public Health Mosquito Control (PHMC). A PHMC license is required for any person who supervises pesticide applications to control mosquitoes on public land or public waters. Certification required: Public Health Pest Control (C08). Alternative requisites to experience/education: GRC license.
- (14) Weed Control – Right-of-Way Industrial (WEC). A WEC license is required for any person who supervises branch operations for custom pesticide applications to control plants on industrial sites and rights-of-way (e.g. highways, transmission lines, drainage ditches, etc.). Certification required: Right-of-Way Pest Control (C06). Alternative requisites to experience/education: AGE license, HLT license, or HRI license.
- (15) Wood Destroying Organisms (WDO). A WDO license is required for any person who supervises branch operations for wood destroying organism inspections or custom pesticide applications to control termites, wood borers, carpenter bees, carpenter ants, or decay in structures. A WDO or FUM license is also required for any person who makes a custom application of pesticides for control of wood destroying beetles. Certification required: Industrial, Institutional, Structural, and Health-Related Pest Control (C07). Experience/education prerequisites for WDO are:
- (a) Masters or doctoral degree in entomology; and certificate from the Tennessee Apprentice Termite Technician School offered by the department;

(Rule 0080-09-02-.03, continued)

- (b) One year of full-time work experience that required C07 certification; and a baccalaureate degree with a major or minor in a related course of study; or,
 - (c) Two years of full-time work experience that required C07 certification.
- (16) Wood Preservatives (WPC). A WPC license is required for any person who supervises branch operations for custom pesticide applications to control damaging effects of pests or weather on wood in non-structural applications (e.g. insects, fungi, marine borers, etc. in pole or cross tie treatments and wood manufacture or distribution). Certification required: Wood Preservatives (C11).
- (17) Special Pesticide License (SPC). An SPC license is required for any person who supervises branch operations for custom pesticide applications in situations and methods not covered under any other license category. Applicants for an SPC license are subject to examination and qualification requirements as determined by the department, upon advice of the Pest Control Advisory Board, for each SPC license that is issued.

Authority: T.C.A. §§ 4-3-203, 43-1-703, 43-8-106, 43-8-113, 43-8-302, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Emergency rules filed April 7, 2020; effective through October 4, 2020. Emergency rules expired effective October 5, 2020, and the rules reverted to their previous statuses. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-02-.04 CERTIFICATION CATEGORIES.

- (1) Categories of service.
 - (a) Agricultural Pest Control (C01). C01 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application on agricultural crops or pasture.
 - (b) Forest Pest Control (C02). C02 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application on forests, forest nurseries, or forest seed producing areas.
 - (c) Ornamental and Turf Pest Control (C03). C03 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application on non-agricultural landscape (e.g. ornamental trees, plants, grasses, fruit trees, shrubs, flowers, turf, lawns, golf courses, and athletic fields).
 - (d) Seed Treatment (C04). C04 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application on agricultural or vegetable seeds.
 - (e) Aquatic Pest Control (C05). C05 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application on aquatic environments or any pesticide application on state waters.
 - (f) Right-of-Way Pest Control (C06). C06 certification is required for any person who makes, solicits, or authorizes by direct supervision any pesticide application on rights-of-way for public roads, electric power lines, pipelines, railways, industrial sites, highways, transmission lines, or drainage ditches, etc.
 - (g) Industrial, Institutional, Structural, and Health-Related Pest Control (C07). C07 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application in, on, or around physical

(Rule 0080-09-02-.04, continued)

facilities, whether public or private (e.g. food establishments, human dwellings, schools, child-services establishments, hospitals, industrial establishments, warehouses, grain elevators, etc.). C07 certification does not authorize applications under direct supervision for which a GRC license is required. The C07 category includes pesticide applications for control of birds.

- (h) Public Health Pest Control (C08). C08 certification is required for any person, including any governmental employee in the course of employment, who makes, solicits, or authorizes by direct supervision any pesticide application for control of public health pests on public land or public waters. This category applies specifically to mosquitoes, rats, and other pests generally known to pose a threat for spreading disease.
- (i) Limited Herbicide Applicator (C09). C09 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom application of pesticide with the sole active ingredient Glyphosate, incident to commercial lawn and landscape maintenance.
- (j) Demonstration, Research, and Regulatory Pest Control (C10). C10 certification is required for any person who commercially demonstrates pesticide products, including any governmental employee in the course of employment, who recommends, uses, or authorizes by direct supervision a pesticide application on private lands or private waters or on public lands for field research. C10 certification does not authorize custom applications of pesticides.
- (k) Wood Preservatives (C11). C11 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application for wood preservation.
- (l) Pesticide Dealer (C12). C12 certification is required for at least one person per location where restricted use pesticides are sold or offered for sale within the state. C12 certification authorizes the holder to purchase and to use restricted use pesticides but does not authorize the holder to make custom applications of pesticides.
- (m) Antifouling Marine Paint (C13). C13 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application of antifouling marine paints.
- (n) Microbial Pest Control (C14). C14 certification is required for any person who makes, solicits, or authorizes by direct supervision a custom or restricted use pesticide application to control microorganisms.
- (o) Reserved.
- (p) Sewer Line Treatment (C16). C16 certification is required for any person who makes, solicits, or authorizes by direct supervision any pesticide application to control pests in sewer lines or wastewater treatment facilities.
- (q) Private Applicator certification is required for any person who makes or authorizes by direct supervision a private, restricted use pesticide application for production of an agricultural commodity.

(2) Service standards and competencies.

- (a) Standards for each category include relevant practical knowledge of structures, livestock, cropland, rights-of-way, seed production, landscapes, public areas, or waterscapes where pesticides are expected to be applied; the identification of

(Rule 0080-09-02-.04, continued)

associated pests, their biology and population dynamics; pre-harvest restrictions and restricted entry intervals, as applicable; specific pesticide's toxicity and hazards; formulations; residue potential; proper storage, handling, transport, application and disposal of specific pesticides; and non-target injuries or drift, and other environmental precautions or potential exposures associated with pesticide applications.

- (b) Competency for all categories is determined consistent with federal requirements at 40 C.F.R. §§ 171.101 and 171.103 and includes comprehension and practical knowledge of pesticide label sections, warnings, and symbols; safety including personal protective equipment, poisoning symptoms, and first aid; environmental concerns; target pests; pesticide types; equipment calibration; application methods; laws and regulations; responsibilities of direct supervision and control of noncertified applicators; and professionalism of applicators.

Authority: T.C.A. §§ 4-3-203, 43-1-703, 43-8-106, 43-8-302, 62-21-111, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-02-.05 LICENSE AND CERTIFICATION TESTING.

(1) Commercial applicators.

- (a) License testing. Applicants for pest control operator licenses must first complete license testing. Prior to examination, applicants must:
1. Submit to the department or its designee a completed exam application on forms provided by the department;
 2. Be at least 18 years old prior to examination;
 3. Submit to the department or its designee payment of a Tier 4 examination fee under T.C.A. § 43-1-703(f);
 4. Show proof of certification in a pesticide category required for the applicable pesticide license; and,
 5. Show proof of experience and education requirements required for the license. Unless otherwise noted in the license category, applicants must have completed one of the following education and experience prerequisites:
 - (i) Baccalaureate degree from an accredited college or university with a major or minor in a related course of study;
 - (ii) One year of full-time work experience that required the applicable certification; and 12 college level semester credits in a related course of study; or,
 - (iii) Two years of full-time work experience that required the applicable certification.
 6. Upon passage of a license exam, the applicant shall be eligible for receipt of the corresponding license pending payment of license fees. Absent extraordinary circumstances, if an applicant does not submit payment of applicable license fees within one year of the exam date, the exam passage shall expire, and the applicant shall be required to retake the exam prior to receiving a license.

(Rule 0080-09-02-.05, continued)

- (b) Certification testing. Applicants for commercial pesticide applicator certification must first complete certification testing. Prior to examination, applicants must:
 - 1. Submit to the department or its designee a completed exam application on forms provided by the department;
 - 2. Be at least 16 years old prior to examination. A commercial applicator under the age of 18 is prohibited from buying, selling, mixing, applying, or supervising the use or sale of restricted use pesticide; and,
 - 3. Submit to the department or its designee payment of a Tier 1 examination fee under T.C.A. § 43-1-703(f).
 - (c) Examination fees are required for each exam to be administered; retest of any exam requires separate application and payment of additional exam fees. Applicants may withdraw applications for examination up to five business days prior to a scheduled exam and receive a full refund of the examination fee. After that time, an applicant shall be ineligible for refund of the examination fee absent extraordinary circumstances.
- (2) Private applicators.
- (a) Applicants for private applicator certification must be at least 18 years old prior to certification. Applicants age 16 or 17 years old are eligible for private applicator certification if they are of familial relation, by birth or adoption, to the owner or renter of the property where restricted use pesticides are applied. A private applicator under the age of 18 is prohibited from buying restricted use pesticide and from using or supervising the use of restricted use pesticide on property not owned or rented by a family relation.
 - (b) Applicants for private applicator certification must complete within the previous year and show proof of passing a specialized training course administered by the University of Tennessee Extension Service. Proof of passage requires a score of at least 70% and submission of the course's three-part form signed by the extension agent administering the course.
- (3) Time, place, and manner of testing.
- (a) Applicants sitting for a license or commercial certification exam must present valid, government-issued photo identification on the day of the examination.
 - (b) Examinations consist of substantive knowledge and specimen identification practicums relative to specific service categories. To pass examination, an applicant must score 70% or higher on the total exam.
 - (c) Any applicant who misrepresents qualifications for a pesticide license or who engages in cheating on any exam shall be given a failing score for the exam and shall immediately be removed from the testing site. The applicant shall forfeit payment of the examination fee and shall be ineligible to sit for any commercial certification or license examination for two years. The department may also summarily revoke any license or certification previously issued to the applicant.
 - (d) The department may deny examination to any person who fails to comport with this rule.
- (4) Reciprocity. In lieu of examination, applicants may apply for certification based on reciprocity with another state.

(Rule 0080-09-02-.05, continued)

- (a) Applicants for reciprocal certification must show proof of valid, equivalent certification in the reciprocating state.
- (b) Reciprocity satisfies the testing requirements and examination fees associated with certifications under this chapter.
- (c) Reciprocity is not available for receipt or renewal of any pesticide license.

Authority: T.C.A. §§ 4-3-203, 43-8-106, 62-21-111, 62-21-112, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Emergency rules filed April 7, 2020; effective through October 4, 2020. Emergency rules expired effective October 5, 2020, and the rules reverted to their previous statuses. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-02-06 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Emergency rules filed April 7, 2020; effective through October 4, 2020. Emergency rules expired effective October 5, 2020, and the rules reverted to their previous statuses. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-07 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-08 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-09 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-10 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-11 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-12 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-1-703, 43-8-104, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-.13 REPEALED.

Authority: T.C.A. §§ 4-3-203, 4-3-204, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 24, 2018; effective July 23, 2018. Amendment filed August 7, 2019; effective November 5, 2019. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-02-.14 REPEALED.

Authority: T.C.A. §§ 4-3-203, 4-5-208, 43-8-106, and 62-21-118. **Administrative History:** Emergency rules filed May 15, 2020; effective through November 11, 2020. Emergency rules expired effective November 12, 2020, and the rules reverted to their previous statuses. Repeal filed September 27, 2021; effective December 26, 2021.

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-03
PESTICIDE REGISTRATION, DISTRIBUTION, AND SALES**

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0080-09-03-.01 SCOPE.

- (1) This chapter applies to any person who purchases a restricted use pesticide and any person who manufactures, sells, offers for sale, transports or distributes any pesticides in commerce.
- (2) This chapter applies to any pesticide applications for which certification is not required.
- (3) Persons licensed, registered, or certified under this chapter shall be responsible for operations under their license, registration, or certification until it expires or until the department receives written notification requesting it be terminated. The department shall not refund fees for early termination of any license, registration, or certification issued under this chapter.
- (4) Licenses, registrations, and certifications issued under this chapter are not transferable from person to person.

Authority: T.C.A. §§ 4-3-203, 43-1-703, 43-8-106, 43-8-302, and 43-8-304. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-03-.02 DEFINITIONS.

- (1) Terms in this chapter share those meanings of terms set forth under the Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled at Tennessee Code, title 43, chapter 8, parts 1 and 2.
- (2) When used in this chapter, unless the context requires otherwise:
 - (a) Act means the Tennessee Insecticide, Fungicide, and Rodenticide Act, compiled at Tennessee Code, title 43, chapter 8, parts 1 and 2;
 - (b) Commerce or words of similar import mean involving payment for an item or payment for services incident to production of the item;
 - (c) Dealer means any person who sells or offers for sale restricted use pesticides; and,
 - (d) EPA means United States Environmental Protection Agency.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 43-8-302. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-03-03 PESTICIDE REGISTRATIONS.

- (1) A person shall not distribute, sell, or offer for sale pesticides within the state unless the pesticide is registered with the department or the person or product is exempt from registration under the Act.
- (2) Application for registration shall be made on forms provided by the department, which shall be completed in full and may include:
 - (a) Name of the registrant;
 - (b) Date of birth of any registrant who is an individual or a partner in a general partnership;
 - (c) Proof of one of the following for any registrant who is not an individual or a partner in a general partnership:
 1. Entity registration in its state of incorporation; or,
 2. Entity's business license issued by a local governmental authority;
 - (d) Contact information for registrant, to include name of person legally responsible for applicant's operations, telephone number, email address, and address of the principal place of business;
 - (e) Address of any location used by registrant in the manufacture, sale, holding, or distribution of pesticides;
 - (f) Pesticide name and copy of its label; and,
 - (g) Other information as required by the department or the Act.
- (3) Registrants shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) Registrants shall include with their application payment of a fee as appropriate for the following.
 - (a) Pesticide Manufacturer Registration. A pesticide manufacturer registration is required per pesticide product for any person who produces a pesticide that is packaged and sold, offered for sale, distributed, or transported in commerce within the state. Applicants shall submit with their application a pesticide registration statement in accordance with the Act. The fee for a pesticide manufacturer registration is a Tier 5 annual fee under T.C.A. § 43-1-703(f). Pesticide manufacturer registrations expire on June 30 following their issuance. Applicants for renewal shall submit the appropriate annual fee to the department on or before July 1 of each year. If an applicant for renewal fails to pay the annual fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the applicant's registration.
 - (b) 24-C Label Registration. A 24-C is a special local needs label for use of a pesticide not otherwise permitted or controlled by the pesticide's federally approved label. A 24-C label operates as a supplemental label and is binding on the pesticide's use within the state. A 24-C label is read in conjunction with and not in lieu of the federally approved label; however, for any conflicting provisions between the two labels, the 24-C label shall control. Any person holding a pesticide manufacturer registration may request a 24-C label for the registered pesticide. 24-C label registrations expire five years from

(Rule 0080-09-03-.03, continued)

their date of issuance. The fee for a 24-C label registration is a Tier 6 fee under T.C.A. § 43-1-703(f).

- (5) The department may deny any application for a registration that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203, 43-8-104, 43-8-106, and 43-8-113. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-03-.04 PESTICIDE DEALERS.

- (1) A pesticide dealer license is required per person per location where restricted use pesticides are sold or offered for sale within the state. The fee for a pesticide dealer license is a Tier 2 annual fee under T.C.A. § 43-1-703(f). Pesticide dealer licenses expire on June 30 following their issuance. Applicants for renewal shall submit the appropriate annual fee to the department on or before July 1 of each year. If an applicant for renewal fails to pay the annual fee by the following July 16, the applicant shall also be required to pay a late charge under T.C.A. § 43-1-703 prior to renewal of the license.
- (2) Application for a pesticide dealer license shall be made on forms provided by the department, which shall be completed in full and may include:
- (a) Name of the applicant;
 - (b) Date of birth of any applicant who is an individual or a partner in a general partnership;
 - (c) Proof of one of the following for any applicant who is not an individual or a partner in a general partnership:
 - 1. Entity registration in its state of incorporation; or,
 - 2. Entity's business license issued by a local governmental authority;
 - (d) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, and address of the principal place of business;
 - (e) Address of location where restricted use pesticides are offered for sale;
 - (f) Proof of current Pesticide Dealer (C12) certification for at least one person employed by applicant; and,
 - (g) Other information as required by the department or the Act.
- (3) Applicants shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) Pesticide dealers must employ, per licensed location, at least one person who holds a Pesticide Dealer (C12) certification.
- (a) Individual salespersons at a licensed location do not need individual C12 certification; however, the C12 certification holder and the dealer licensee shall be responsible for all sales of restricted use pesticides at the location and any associated violations of the Act or this chapter.

(Rule 0080-09-03-.04, continued)

- (b) Pesticide dealers shall maintain the following records of restricted use pesticide sales for two years from the date of sale: name and certification number of the purchaser; name, EPA registration number, and amount of pesticide purchased; expiration date of the purchaser's certification; and date of sale.
- (5) The department may deny any application for a pesticide dealer license that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 43-8-113. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-03-.05 INSPECTIONS.

- (1) For any location or conveyance where the department has reason to believe a person is engaged in the business of manufacturing, selling, offering for sale, transporting, or distributing pesticides in commerce, the department may enter the location or conveyance at a time in accordance with the Act for the purpose of sampling substances or equipment; examining pesticides and records; and copying records as necessary to determine compliance with the Act and this chapter.

Authority: T.C.A. §§ 4-3-203 and 43-8-106. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-03-.06 VIOLATIONS.

- (1) In addition to other requirements of the Act and this chapter, pesticide dealer licensees and pesticide product registration holders shall:
 - (a) Maintain areas where pesticides are housed so as to be readily accessible for inspection;
 - (b) Maintain records required under this chapter so as to be readily available for inspection;
 - (c) Give full information as to the origin or destination of pesticides sold or offered for sale; and,
 - (d) Manage and dispose of pesticides in a manner consistent with this division of rules.
- (2) In addition to other requirements of the Act and this chapter, pesticide dealer licensees and pesticide product registration holders shall not:
 - (a) Sell, offer for sale, or distribute in commerce any pesticide without a pesticide dealer license and product registration required by this chapter;
 - (b) Knowingly provide any false, misleading, or incorrect information regarding the sale, offer for sale, or distribution of pesticides in commerce;
 - (c) Interfere with a representative of the department in the performance of his or her duties;
 - (d) Violate any order issued by the department; or,
 - (e) Sell any restricted use pesticide to an uncertified purchaser.

(Rule 0080-09-03-.06, continued)

- (3) A person shall not purchase a restricted use pesticide unless he or she is certified by the department for the application of restricted use pesticides.
- (4) A person shall not use pesticide in a manner inconsistent with its labeling.
- (5) A person is responsible for violations of the Act or this chapter when committed by either the person or his agent.
- (6) Each violation of the Act or this chapter is grounds for issuance of stop sale or disposal orders for any pesticide held by the violator or his agent; denial or revocation of any registration, certification, or license issued by the department; actions for injunction; and imposition of civil penalties or criminal charges against the violator.

Authority: T.C.A. §§ 4-3-203 and 43-8-106. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-04
PESTICIDE APPLICATIONS**

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0080-09-04-.01 SCOPE.

- (1) This chapter applies to any person who engages in the business of commercial pest control; who makes or supervises any pesticide application for which certification is required; or who inspects or supervises inspections of real property for issuance of a wood destroying insect infestation report.
- (2) This chapter does not apply to sale or distribution of pesticides or to applications of pesticide for which no certification is required.
- (3) Persons holding a charter, license, or certification issued under this chapter shall be responsible for operations under the charter, license, or certification until the document expires or until the department receives written notification from the holder requesting it be terminated. The department shall not refund fees for early termination of any charter, license, or certification issued under this chapter.
- (4) Charters, licenses, and certifications issued under this chapter are not transferable from person to person.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.02 DEFINITIONS.

- (1) Terms in this chapter share those meanings of terms set forth in the Tennessee Application of Pesticides Act of 1978, T.C.A. §§ 62-21-101, et seq.
- (2) When used in the Act or this chapter, unless the context requires otherwise:
 - (a) Act means the Tennessee Application of Pesticides Act of 1978, compiled at T.C.A. §§ 62-21-101, et seq.;
 - (b) Domiciled and resident at or near the office and supervising on a regular routine work basis under the Act means that a licensee lives within a proximity and reports to the office at a frequency approved by the charter holder as sufficient to oversee operations and needs of the office;
 - (c) Engages in the business of commercial pest control means the advertisement, offer, or sale of:

(Rule 0080-09-04-.02, continued)

1. Pesticide applications for a fee to control identified pests, or
 2. Inspections for wood destroying organisms;
- (d) Fee means financial or other consideration that is paid or charged for a service;
- (e) Fumigation means the application of gas even if the substance that is applied is originally a solid or liquid that later turns to gas upon being dispensed;
- (f) Non-clerical employee means any person engaged in work incident to the handling, transportation, or application of pesticides. Clerical employee means any person engaged solely in office work related to routine documentation and administrative tasks of a business. For purposes of the Act and this chapter, all employees of a pesticide charter holder are either clerical or non-clerical employees but not both;
- (g) Person means an individual, partnership, corporation, or any other form of legal entity; and,
- (h) Pest or disease means any insect, rodent, fungi, bacteria, plant life, or biotic agent that is injurious either to the environment or to the agricultural, horticultural, silvicultural, or other interests of the state. Pest or disease includes insect pests and plant diseases as defined under the Tennessee Plant Pest Act, compiled at T.C.A. §§ 43-6-101, et seq., and may also include any form of animal or plant life, any infectious plant disease, or any plant disorder that manifests symptoms or behavior determined by a federal or state pest prevention agency to be characteristic of infectious disease.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.03 PESTICIDE CHARTERS.

- (1) A pesticide charter is required per office for any person who engages in the business of commercial pest control.
- (2) Application for a charter shall be made on forms provided by the department, which shall be completed in full and may include:
 - (a) Name of the applicant;
 - (b) Date of birth of any applicant who is an individual or a partner in a general partnership;
 - (c) Proof of one of the following for any applicant who is not an individual or a partner in a general partnership:
 1. Entity's registration in its state of incorporation; or,
 2. Entity's business license issued by a local governmental authority;
 - (d) Contact information for applicant, to include name of person legally responsible for applicant's operations, telephone number, email address, and address of the principal place of business;
 - (e) Address of office where applicant will engage in the business of commercial pest control;

(Rule 0080-09-04-.03, continued)

- (f) Name and pesticide control operator license number of each person assigned to supervise commercial pest control operations under the charter;
 - (g) Proof of bonding and insurance as required under the Act;
 - (h) Solicitors registration. Roster and applicant's written verification of all employees authorized under the charter to solicit pest control business or to enter into contract on the applicant's behalf;
 - (i) Technicians registration. Roster of non-clerical employees who are not included in the solicitors registration; and,
 - (j) Other information as required by the department.
- (3) Charter holders shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) Applicants shall include with their application payment of a charter fee and solicitor and technician registration fee.
- (a) Charter fee. The fee for a pesticide charter is a Tier 9 biennial fee under T.C.A. § 43-1-703(f), which may be prorated in the initial term of the charter as a Tier 5 fee for each year remaining in the term.
 - (b) Solicitor and technician registration fee. The fee for solicitor and technician registration is a Tier 2 biennial fee under T.C.A. § 43-1-703(f) for each non-clerical employee registered with the department. The solicitor and technician registration fee may be prorated as a Tier 1 fee for each person employed by the charter holder for less than one year preceding the application.
 - (c) Term. All charters expire on June 30 of odd numbered calendar years.
- (5) Applicants for renewal shall submit the appropriate fees and required application materials to the department on or before July 1 of the year in which the charter expires.
- (a) If an applicant for renewal fails to pay required fees or to provide required application materials on or before July 16 following expiration of the charter, the applicant shall also be required to pay a late charge assessed under T.C.A. § 43-1-703 prior to renewal of the applicant's charter.
 - (b) Lapse of bonding or insurance at any time shall result in immediate expiration of the charter. The charter holder shall be afforded a grace period of 30 days to submit proof of valid bonding and insurance to the department without accrual of charges to reinstate the charter. Following the grace period, the firm shall be required to obtain a new pesticide charter and pay all associated fees in order to operate in the business of commercial pest control.
- (6) The department may deny any application for a charter that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203, 62-21-111, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.04 PEST CONTROL OPERATOR LICENSES.

- (1) A pest control operator license is required for oversight of technical service work as stated under 0080-09-02-.03 License Categories. Pest control operator licenses are issued only to individuals and not formalized business entities.
- (2) Application for a license shall be made on forms provided by the department, which shall be completed in full and may include:
 - (a) Name and date of birth of the applicant;
 - (b) Contact information for applicant, to include employer's name, telephone number, email address, and address of the principal place of business;
 - (c) Address of charter holder's office where licensee will be employed;
 - (d) Proof of current pesticide applicator certification in the category necessary for licensure;
 - (e) Proof of passing pest control operator license examination within the previous year; and,
 - (f) Other information as required by the department.
- (3) Licensees shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) The fee for any pest control operator license, except a PCC license, is a Tier 2 biennial fee under T.C.A. § 43-1-703(f), which may be prorated as a Tier 1 fee for each year remaining in the term. The fee for a PCC license is a Tier 10 biennial fee, which may be prorated as a Tier 6 fee for each year remaining in the term.
- (5) All pest control operator licenses expire on June 30 of odd numbered calendar years.
- (6) Applicants for renewal shall submit the appropriate license fee and proof of current pesticide applicator certification required for the license to the department on or before July 1 of the year in which the license expires. If an applicant for renewal fails to pay required fees on or before July 16 following expiration of the license, the applicant shall also be required to pay a late charge assessed under T.C.A. § 43-1-703 prior to renewal of the applicant's license. If an applicant fails to maintain pesticide applicator certification required for the license, the license shall expire and require examination for both the applicable certification and the license before being reissued.
- (7) The department may deny any application for a license that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203, 62-21-111, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.05 PESTICIDE APPLICATOR CERTIFICATIONS.

- (1) Pesticide applicator certification is required for performance of technical service work as stated under 0080-09-02-.04 Certification Categories. Pesticide certifications are issued only to individuals and not to formalized business entities.

(Rule 0080-09-04-.05, continued)

- (2) Application for certification shall be made on forms provided by the department, which shall be completed in full and may include:
 - (a) Name and date of birth of the applicant;
 - (b) Contact information for applicant, to include employer's name, telephone number, email address, and address of the principal place of business;
 - (c) Address of pesticide charter holder's office where the applicant will be employed;
 - (d) Proof of passing applicator certification examination within the previous year; and,
 - (e) Other information as required by the department.
- (3) Certification holders shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) All certifications issued under this rule expire on a three-year certification cycle, beginning June 30, 2023, and again on June 30 of every third year thereafter. Applicants for renewal of either commercial applicator or private applicator certifications must recertify by completing all testing requirements for issuance of the original certification, as detailed under 0080-09-02-.05 License and Certification Testing.
 - (a) 1. In lieu of testing for recertification, applicators may recertify by accrual of approved continuing education unit credits (CEUs) prior to expiration of their certification, according to the following schedule:

Service Category Number	Service Category Description	Number of CEUs Required for Recertification
C01	Agricultural Pest Control	18
C02	Forest Pest Control	12
C03	Ornamental and Turf Pest Control	18
C04	Seed Treatment	6
C05	Aquatic Pest Control	12
C06	Right-of-Way Pest Control	18
C07	Industrial, Institutional, Structural, and Health-Related Pest Control	21
C08	Public Health Pest Control	18
C09	Limited Herbicide Applicator	12
C10	Demonstration, Research, and Regulatory Pest Control	18
C11	Wood Preservatives	6
C12	Pesticide Dealer	18
C13	Antifouling Marine Paint	6
C14	Microbial Pest Control	12
C16	Sewer Line Treatment	6
	Private Applicator	3

- 2. External training requirement.
 - (i) To recertify by accrual of CEUs, applicators in all service categories except C07 must attend at least half of the required CEUs as external trainings. C07 applicators must attend at least two-thirds of the required CEUs as external trainings.

(Rule 0080-09-04-.05, continued)

- (ii) External training means that CEU attendees and presenters are not employed by the same charter holder and that the training is conducted in a manner that allows presenters and attendees to interact in real time.

(b) Continuing Education Units.

1. Courses.

- (i) Course presenters. CEU course presenters must be:
 - (I) Certified in the category for which the CEU is being offered;
 - (II) A member of the academic community related to pesticide research that is the subject of the CEU;
 - (III) Regulatory or extension personnel in the pesticide field; or,
 - (IV) A member of industry with direct work experience related to pesticides that are the subject of the CEU, as evidenced by pesticide product registration, pesticide applicator certification, or pest control operator licensing in Tennessee or another state.
- (ii) Course materials. At least 30 days prior to the course offering, presenters must submit to the department for review a CEU course application, overview, description of class time anticipated for the course, and any supporting course materials. For courses offered by educational institutions, presenters must submit these materials to the University of Tennessee, Pesticide Safety Education Program (PSEP).
- (iii) Approval and verification. Courses approved for credit will receive written confirmation from the department detailing the number of CEU credits eligible for the proposed course. Courses must be presented according to the approved application, curriculum, and materials. Representatives of the department or PSEP may attend approved courses, without incurring registration fees, for purposes of verifying course content and presentation. The department may deny approval for any course materials or presentation inconsistent with requirements of the certification category in which the course is being offered.
- (iv) CEU courses are approved at the rate of one CEU credit per 50 minute attendance hour.

2. Accrual.

- (i) Persons attending or presenting a CEU course receive CEU credits in the amount and certification category as approved by the department for the course.
- (ii) Attendance rosters. CEU course presenters must submit to the department an attendance roster of all attendees and presenters per CEU course presented. Presenters must submit the roster to the department within 30 days following the CEU course presentation. Failure to submit attendance rosters timely may result in denial of CEU credits for the course attendees and denial of future applications for CEU course approval by the presenter(s) for up to five years.

(Rule 0080-09-04-.05, continued)

- (iii) Expiration. CEU credits accrued in previous certification periods are not assignable for CEU credit in subsequent certification periods.
 - (iv) The number of CEU credits required for recertification may be prorated per year for persons obtaining original certification during the current certification period.
 - 3. The department may revoke course approval or deny CEU credit for any failure to comport with this rule.
 - (c) Reciprocity. In lieu of testing for recertification or acquiring CEU credits, applicants may apply for recertification based on reciprocity with another state. Applicants for reciprocal recertification must show proof of valid, equivalent recertification in the reciprocating state.
 - (d) Given extraordinary circumstances, the department may in its discretion extend the deadline for recertification testing or accrual of CEU credits applicable to particular applicators or service categories.
 - (e) Failure to recertify within the certification period, by a manner authorized under this rule, shall cause the certification to expire.
- (5) Fees.
- (a) Commercial applicator. Other than examination fees, there is no fee for certification or recertification of commercial applicators.
 - (b) Private applicator. The fee for Private Applicator Certification is a Tier 1 fee under T.C.A. § 43-1-703(f). There is no fee for recertification of private applicators.
- (6) The department may deny any application for a certification that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.06 RECORDS.

- (1) Commercial applicators shall maintain records for each custom application of pesticides and each application of restricted use pesticide that they apply or that they authorize by direct supervision.
- (2) Private applicators shall maintain records for each application of restricted use pesticide that they apply or authorize by direct supervision.
- (3) Each application record shall include:
 - (a) Applicator's first and last name and certification number;
 - (b) Trade name, as it appears on the product label, of the pesticide applied;
 - (c) Address where the application was made;
 - (d) Date of the application;

(Rule 0080-09-04-.06, continued)

- (e) Target area (e.g. crop, plant, house, business, or building where the pesticide was applied);
 - (f) Target pest. For mixtures of pesticides made in a single application, the record must clearly indicate which pests were targeted by the separate pesticides in the mixture;
 - (g) Total amount of pesticide applied;
 - (h) Percentage use dilution;
 - (i) Application rate;
 - (j) First and last name of property owner or tenant where pesticide applied; and,
 - (k) For each application of a restricted use pesticide, the application record shall include EPA registration number of the pesticide applied and the time of its application.
- (4) Applicators shall supply a copy of required application records within 48 hours of request by a property owner or tenant where the pesticide was applied.
- (5) Applicators shall maintain records required under this rule for a period of two years from the date of application.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.07 INSPECTIONS.

- (1) For any location where the department has reason to believe a person is engaged in the business of commercial pest control or has made application of pesticide otherwise regulated under this chapter, the department may enter the location at a time in accordance with the Act for the purpose of sampling; examining equipment, pesticides, and application sites; and examining and copying records, as necessary to determine compliance with the Act and this chapter.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.08 REQUIREMENTS OF SPECIFIC CATEGORIES AND PESTICIDES. The following requirements apply in addition to use and recordkeeping requirements of pesticide applications under this chapter.

- (1) Fumigations poisonous to humans.
- (a) When any fumigation application is made of a pesticide that is poisonous to humans, a FUM or FUS licensee must be present at the application site; actively in charge of the work; and ensure the following:
- 1. At least one gas mask, must be readily available at the application site for each person present during the application. Each mask must be capable of protecting its wearer from the pesticide being applied;
 - 2. Warning signs must be conspicuously posted at all entrances to the structure or area of the fumigation site. Signs must clearly indicate that the property is being fumigated with poisonous gas and that no one should enter;

(Rule 0080-09-04-.08, continued)

3. A guard must be posted at all entrances available to the public and must prevent entry by any unauthorized person. All entry doors where a guard is not posted must be locked and patrolled regularly by a guard. All guards shall have ready access to a gas mask capable of protecting its wearer from the pesticide being applied; and,
 4. The structure or area of the fumigation site must be cleared of all fumigants in accordance with the pesticide's label instructions before re-entry is authorized.
- (2) Limited herbicide applicators.
- (a) Limited herbicide applicators are exempt from charter, licensing, and recordkeeping requirements associated with applications of Glyphosate covered by the C09 certification, provided that:
 1. Glyphosate application equipment is limited to a single, hand-held nozzle supplied by a tank with a maximum capacity of 25 gallons and an electric or hand-powered pump with a maximum discharge rate of 1.5 gallons per minute;
 2. The name of the business and certification number are displayed on company vehicles in the same manner as required for display of charter numbers under the Act;
 3. Records are made to include the date and property address of each application, and the records are maintained for two years from the date of application; and,
 4. The certification holder does not allow any uncertified person to make application of the pesticides even under direct supervision.
 - (b) Applications of Glyphosate stored, provided, or mixed by a homeowner or renter are deemed personal use applications of the owner or renter.
- (3) Wood destroying organisms.
- (a) Contracts.
 1. WDO licensees shall ensure that a written contract is executed in duplicate prior to any pesticide application for control of wood destroying organisms. Upon execution, one copy of the contract shall be retained by the chartered pest control operator, and one copy of the contract shall be provided to the party contracting for the pesticide service.
 2. Each contract for control of any wood destroying organism must include, prior to execution:
 - (i) A date of inspection and graph of the property covered by the contract, showing portions of the property exhibiting the presence of visible wood destroying insects or damage caused by wood destroying insects;
 - (ii) A provision for transfer of the contract to subsequent owners or renters of the property within the term of the contract; and,
 - (iii) A unique number to distinguish the contract from other contracts issued by the chartered pest control operator.

(Rule 0080-09-04-.08, continued)

- (iv) Any contract for control of termites shall include a one-year warranty providing for retreatment of the property.
 - (v) Guarantees for damage caused by wood destroying organisms during the term are optional. Any contract that does not provide a damage guarantee shall clearly indicate the absence of a damage guarantee in one-half inch tall letters on the front of the agreement.
3. For each property under contract, charter holders must conduct an annual inspection of the property and document the date of inspection. If termite activity is discovered inconsistent with the previous graph, the charter holder must make application of an appropriate pesticide and create a new graph of the property showing the new termite activity. Copies of records for annual inspections and treatments shall be made available within 48 hours of request by the contracting party.
- (b) Applications.
- 1. Termites.
 - (i) Notwithstanding allowances under any state or federal law, pesticide applicators shall not exceed a 10% variance of label directions when mixing or applying termiticides.
 - (ii) Applicators may perform less than complete treatments if:
 - (I) The applicator informs the contracting party of possible outcomes associated with a less than complete treatment;
 - (II) Acceptance of less than complete treatments is noted in bold font within the contract for services and initialed by the owner or tenant of the property contracting for service; and,
 - (III) The applicator marks on the graph of the property where less than complete treatments will be performed.
 - (iii) Unless contrary to pesticide label directions, pretreatments for new construction shall be completed within 90 days after backfill of the project.
 - 2. Wood destroying beetles.
 - (i) Active infestations.
 - (I) Prior to making a pesticide application for control of wood destroying beetles, the applicator must inform the property owner or agent of potential risks in making the application and alternative ways to control the beetles and avoid the risks of pesticide application, e.g. by removal and replacement of infested wood.
 - (ii) Preventative treatments of existing structures.
 - (I) Applicators may make pesticide applications to prevent wood destroying beetles in existing structures only if:
 - I. Applied according to label directions;

(Rule 0080-09-04-.08, continued)

- II. Prior to application, the applicator tests the wood moisture content in the target area using an instrument designed to measure moisture content of wood;
 - III. At least five areas where the wood moisture content is tested show moisture content of at least 18%; and,
 - IV. The applicator provides a written report to the property owner or agent detailing these findings to be included in the contract for control of the wood destroying organism.
- (c) Records.
- 1. Charter holders shall maintain copies of all contracts under this rule for two years following expiration of the contract.
 - 2. Charter holders shall maintain inspection records and associated graphs under this rule for two years following the date of inspection.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.09 VIOLATIONS.

- (1) In addition to other requirements of this chapter,
- (a) Certified pesticide applicators shall maintain areas where pesticides and equipment are housed so as to be readily accessible for inspection;
 - (b) Certified pesticide applicators shall maintain records required under this chapter so as to be readily available for inspection;
 - (c) Certified pesticide applicators shall give full information as to the manner of any pesticide application and source of pesticides applied or pesticides held for application;
 - (d) Certified pesticide applicators shall manage and dispose of pesticides in a manner consistent with this division of rules;
 - (e) A person shall not apply pesticides for which certification is required unless certified or operating under direct supervision of a certified person. This provision does not limit stricter application requirements otherwise included in this chapter of rules;
 - (f) A person shall not authorize by direct supervision any application of pesticide unless certified in the category of service for which the pesticide is applied;
 - (g) A person shall not oversee the technical service work of a branch office unless licensed in the category of services for which pesticide services are advertised or applied;
 - (h) Certified pesticide applicators shall not apply or supervise applications of pesticide inconsistent with the pesticide's label directions;
 - (i) Certified pesticide applicators shall not give less than complete treatments of pesticide unless:
 - 1. The less than complete treatment is authorized by the pesticide's label directions or state or federal law;

(Rule 0080-09-04-.09, continued)

2. A complete treatment is ill-advised or prevented by physical conditions of the target area; or,
 3. The property owner or tenant for whom the treatment is applied requests less than complete treatment;
- (j) Certified pesticide applicators shall not falsify the presence of an insect pest or any portion of a record required under this chapter;
 - (k) Pesticide charter holders shall not employ any person as a solicitor or non-clerical employee unless the person is registered with the department;
 - (l) A person shall not knowingly provide any false, misleading, or incorrect information regarding the person's sale, offer for sale, or distribution of pesticides in commerce;
 - (m) A person shall not interfere with a representative of the department in the performance of his or her duties; and,
 - (n) Pesticide charter holders, licensed pest control operators, and certified pesticide applicators shall not violate any order issued by the department.
- (2) Pesticide charter holders, licensed pest control operators, and certified pesticide applicators are responsible for violations of the Act or this chapter when committed by either the person or his agent.
 - (3) Each violation of the Act or this chapter is grounds for issuance of stop work or disposal orders for any pesticide held by the violator or his agent; denial or revocation of any charter, license, or certification issued by the department; actions for injunction; and imposition of civil penalties or criminal charges against the violator.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Amendments filed September 27, 2021; effective December 26, 2021.

0080-09-04-.10 REPEALED.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-04-.11 REPEALED.

Authority: T.C.A. §§ 4-3-203 and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

0080-09-04-.12 REPEALED.

Authority: T.C.A. §§ 4-3-203, 43-1-703, 43-8-113, 62-21-111, 62-21-112, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016. Repeal filed September 27, 2021; effective December 26, 2021.

**RULES
OF THE
TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-05
WORKER PROTECTION**

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0080-09-05-.01 DEFINITIONS.

Farm labor contractor means any person who does not own and is not responsible for the management or condition of an agricultural establishment; and who hires or contracts workers to perform activities related to the production of agricultural plants, in exchange for compensation of any kind.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016.

0080-09-05-.02 WORKER PROTECTION STANDARDS (WPS).

The department adopts by reference, as if fully stated herein, the federal standards for labeling requirements for pesticides and devices and worker protection standards, compiled at 40 C.F.R. Part 156, Subpart K, and Part 170.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016.

0080-09-05-.03 WPS TRAINER REQUIREMENTS.

- (1) Persons currently certified as a private applicator of restricted use pesticides or as a commercial applicator in categories C01, C03, or C10 are exempt from the pesticide safety trainer requirements and may provide WPS training required in 40 C.F.R. § 170.130(d)(1) and § 170.230(c)(1).
- (2) A trainer shall submit a signed roster to the Department verifying that workers and handlers have been trained according to the requirements of 40 C.F.R. § 170.130(d)(1) and § 170.230(c)(1). The roster shall include the following:
 - (a) The name, address, telephone number, and signature of the applicant; and,
 - (b) The date of the training.
- (3) The commissioner or designee shall be permitted to inspect places where WPS training is being held and to question trainers and attendees to determine compliance with the requirements of this rule.
- (4) Any of the following may be grounds for suspension, revocation, or denial of WPS Trainer privileges:
 - (a) Failure to follow worker or handler training requirements detailed under 40 C.F.R. §§ 170.130(d)(1), (4); 170.230(c)(1), (4);
 - (b) Failure to maintain training information or to fulfill verification requirements detailed under paragraph (2) of this rule;

(Rule 0080-09-05-.03, continued)

- (c) Acting as a trainer without authorization; or,
- (d) Revocation, suspension, or denial of trainer authorization in any jurisdiction within the previous three years.

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016.

0080-09-05-.04 NOTICE TO FARM LABOR CONTRACTORS.

- (1) The owner or operator of an agricultural establishment shall provide the farm labor contractor who performs work on that agricultural establishment with:
 - (a) The location of the agricultural establishment's central posting site; and,
 - (b) Any restrictions on entering a treated area, as specified under 40 C.F.R. § 170.120(d), if a treated area is within 1/4 mile of a location where workers work and the treated area is not posted as required under 40 C.F.R. § 170.120(a)-(c).
- (2) The farm labor contractor shall:
 - (a) Post or provide workers in writing with the information required under 40 C.F.R. § 170.122 or the specific location of the central posting site for each agricultural establishment on which the worker will be working; and,
 - (b) Provide workers with restrictions on entering a treated area, as specified in 40 C.F.R. § 170.120(d), if the treated area is within 1/4 mile of a location where the worker will be working and the treated area is not posted as allowed or required under 40 C.F.R. § 170.120(a)-(c).

Authority: T.C.A. §§ 4-3-203, 43-8-106, and 62-21-118. **Administrative History:** Original rule filed April 1, 2016; effective June 30, 2016.

**RULES
OF
THE TENNESSEE DEPARTMENT OF AGRICULTURE**

**CHAPTER 0080-09-06
AERIAL APPLICATIONS OF PESTICIDES**

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0080-09-06-.01 SCOPE.

- (1) This chapter applies to any person who applies pesticides through use of an aircraft.
- (2) Persons licensed under this chapter shall be responsible for operations under their license until it expires or until the department receives written notification desiring it be terminated. The department shall not refund fees for early termination of a license issued under this chapter.
- (3) Licenses issued under this chapter are not transferable from person to person or aircraft to aircraft.

Authority: T.C.A. §§ 4-3-203, 4-5-208, 43-8-302, and 62-21-118. **Administrative History:** Emergency rule filed July 11, 2017; effective through October 1, 2017. Emergency rule expired effective October 2, 2017, and the rule reverted to its previous status. New rules filed September 27, 2021; effective December 26, 2021.

0080-09-06-.02 DEFINITIONS.

- (1) Terms in this chapter share those meanings of terms set forth in T.C.A. § 43-8-301; and,
- (2) Act means T.C.A. §§ 43-8-301, et seq.

Authority: T.C.A. §§ 4-3-203 and 43-8-302. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-06-.03 LICENSE APPLICATION AND FEES.

- (1) Unless exempted under the Act, an aerial application license is required for each pilot of each aircraft used in the application of a pesticide. Aerial application licenses are issued only to individuals and not formalized business entities.
- (2) Application for an aerial application license shall be made on forms provided by the department, which shall be completed in full and may include:
 - (a) Name and date of birth of the applicant;
 - (b) Contact information for applicant, to include employer's name, telephone number, email address, and address of the principal place of business;
 - (c) Address of charter holder's office where licensee will be employed (applicable for those making custom applications of pesticide);

(Rule 0080-09-06-.03, continued)

- (d) Proof of Federal Aviation Authority pilot's license required under the Act;
 - (e) Proof of current pesticide certification in the applicable category of service;
 - (f) Proof of insurance required under the Act; and,
 - (g) Other information as required by the department.
- (3) Licensees shall notify the department of any changes to the information or contents of an application within 30 days after the change takes place.
- (4) The fee for an aerial application license is a Tier 5 annual fee under T.C.A. § 43-1-703(f). The fee for an aerial decal is a Tier 4 annual fee. Aerial application license and decal fees are not prorated.
- (5) All aerial application licenses and decals expire on June 30 following their issuance. Applicants for renewal shall submit the appropriate fees and required application materials to the department on or before July 1 of the year in which the license expires.
- (a) If an applicant for renewal fails to pay required fees or to provide required application materials on or before July 16 following expiration of the license, the applicant shall also be required to pay a late charge assessed under T.C.A. § 43-1-703 prior to renewal of the applicant's license.
 - (b) Lapse of insurance or certification at any time shall result in immediate expiration of the license. The licensee shall be afforded a grace period of 30 days to submit proof of valid insurance to the department without accrual of charges to reinstate the license. Following the grace period, the firm shall be required to obtain a new aerial application license and pay all associated fees in order to operate as an aerial applicator.
- (6) The department may deny any application for a license that is not completed in accordance with this rule.

Authority: T.C.A. §§ 4-3-203 and 43-8-302. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-06-.04 RECORDS.

- (1) Records of aerial application of pesticide shall be made and maintained in accordance with the Act.

Authority: T.C.A. §§ 4-3-203 and 43-8-302. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-06-.05 INSPECTIONS.

- (1) For any location where the department has reason to believe a person is engaged in preparation or conduct of aerial applications of pesticide, the department may enter the location at a time in accordance with the Act for the purposes of sampling; examining equipment, pesticides, and application sites; and examining and copying records, as necessary to determine compliance with the Act and this chapter.

Authority: T.C.A. §§ 4-3-203 and 43-8-302. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.

0080-09-06-06 VIOLATIONS.

- (1) Requirements of aerial application licensees.
 - (a) In addition to other requirements of the Act and this chapter, licensees shall:
 1. Maintain areas where pesticides and equipment are housed so as to be readily accessible for inspection;
 2. Maintain records required under this chapter so as to be readily available for inspection;
 3. Give full information as to the manner of any pesticide application and source of pesticides applied or pesticides held for application; and,
 4. Manage and dispose of pesticides in a manner consistent with this division of rules.
 - (b) In addition to other requirements of the Act and this chapter, licensees shall not:
 1. Apply pesticides for which certification is required unless certified in the applicable category of service;
 2. Authorize an aerial application of pesticide by an unlicensed person even if under the direct supervision of a licensee;
 3. Apply pesticide in a manner inconsistent with label directions;
 4. Falsify the presence of an insect pest or any portion of a record required under this chapter;
 5. Knowingly provide any false, misleading, or incorrect information regarding the person's sale, offer for sale, or distribution of pesticides in commerce;
 6. Interfere with a representative of the department in the performance of his or her duties; or,
 7. Violate any order issued by the department.
- (2) A person is responsible for violations of the Act or this chapter when committed by either the person or his agent.
- (3) Each violation of the Act or this chapter is grounds for issuance of stop work or disposal orders for any pesticide held by the violator or his agent; denial or revocation of any charter, license, or certification issued by the department; actions for injunction; and imposition of civil penalties or criminal charges against the violator.

Authority: T.C.A. §§ 4-3-203 and 43-8-302. **Administrative History:** New rules filed September 27, 2021; effective December 26, 2021.