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Rulemaking Hearing Rule(s) Filing Form

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

Agency/Board/Commission:	Tennessee Department of Agriculture
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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
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0080-06-27-.04	Notice to Farm Labor Contractors

Chapter 0080-06-16
Regulations Governing Use of Pesticides

Amendments

Rule 0080-06-16-.02 Definitions is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Category - means an area of licensing or certification for which commercial pest control operators of general or restricted use applicators are qualified.
- (2) Certified Applicator - means any individual who is certified by the Commissioner of Agriculture as authorized to use, buy, sell, or supervise the use of general or restricted use pesticides.
- (3) Commercial Applicator - means a person who uses, supervises the use of, sells, or buys restricted use pesticides for any purpose other than as defined under Private Applicator. Commercial applicators must be certified in the category of service being offered prior to taking the license examinations.
- (4) Commercial Pest Control Operator - means a person or business entity who engages in the custom application of pesticides or inspection of real property for the purpose of issuing a wood destroying insect inspection report and who has demonstrated to the satisfaction of the pest control licensing and advisory board such person's qualifications to design and direct pest control and inspection operations:
- (5) Custom Application - means the application of pesticides for a fee.
- (6) External Training - means training conducted outside of a pest control operator's place of business and open to anyone to attend or training conducted by an outside presenter who is not employed by the pest control company making the training request.
- (7) General Use Pesticides - means a pesticide that may be purchased and used by individuals without obtaining any certification or licensing.
- (8) In-House Training - means training that is conducted within the employer's place of business and attendance is limited to those employed by that specified company only. In-house training includes but is not limited to internet training, computer-based CD-ROM training, or DVD training.
- (9) Private Applicator - means an individual who uses, supervises the use of, or buys any restricted use pesticide for the purposes of producing an agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
- (10) Recertification - means the authorization every three (3) years by the commissioner to use, supervise the use of, sell, or buy general or restricted use pesticides.
- (11) Reciprocity - means an agreement between the Tennessee Department of Agriculture and state(s) that have similar laws and regulations for the purpose of obtaining certification only. All associated fees are the responsibility of the applicator.
- (12) Restricted Use Pesticide - means any pesticide classified for restricted use by the Commissioner of Agriculture.
- (13) Restricted Use Pesticide Dealer - means an individual who is certified in the category of Pesticide Dealer and who wholesales or retails restricted use pesticides.
- (14) Under the Direct Supervision - means any application or sale of a pesticide by a certified applicator acting under the instructions and control of private applicator, commercial applicator, or

commercial pest control operator who is available if needed. An application or sale is under the direct supervision of an applicator or operator if the applicator or operator is physically present or in direct communication by conventional means of communication.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Rule 0080-06-16-.03 Certification Requirements is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Private Applicator Certification Requirements
 - (a) Successfully complete a specialized training session provided by the University of Tennessee Extension Service teaching the proper use of restricted use pesticides. Send a copy of the three-part form signed by the extension agent verifying the completion of training to the Tennessee Department of Agriculture with appropriate fees as outlined in T.C.A. § 43-1-703.
 - (b) Be certified to use restricted use pesticides in any other state having comparable certification requirements. Individuals who hold a current certification from another state must apply for and receive a reciprocal Private Applicator card with the Tennessee Department of Agriculture.
 - (c) Private applicator certification expires on October 21 of the 3rd year of the certification period.
 - (d) All individuals must be 16 years of age and be a U.S. Citizen or possess a current VISA or other proof of qualified alien status prior to becoming privately certified.
- (2) Commercial Pesticide Applicator Certification Requirements
 - (a) All individuals must be 16 years of age and be a U.S. Citizen or possess a current VISA or other proof of qualified alien status prior to becoming a commercial pesticide applicator.
 - (b) Complete a commercial certification exam application form and submit the form to the commissioner with appropriate fees as outlined in T.C.A. § 43-1-703.
 - (c) Individuals must score seventy (70) percent or higher to pass the commercial certification exam.
 - (d) Individuals who cannot take a scheduled examination due to circumstances beyond their control must contact the Department within forty-eight (48) hours of the scheduled examination to reschedule or their examination fee shall be forfeited.
 - (e) Individuals who fail the certification exam will have a two (2) week waiting period before being rescheduled.
 - (f) Individuals exhibiting unethical behavior during an examination shall fail the test and be ineligible to take the certification exam for one (1) year.
 - (g) Individuals who possess a certification from another state that has a reciprocal agreement with the Tennessee Department of Agriculture will be issued a commercial pesticide applicator certification card. The applicant shall submit a copy of the front and back of the current applicator card issued by the reciprocating state along with the reciprocity application form furnished by the Tennessee Department of Agriculture.
 - (h) Commercial applicator certification expires on December 31st of the 3rd year of the certification period.
- (3) Requirements for Certification as a Commercial Pest Control Operator.
 - (a) Anyone who charges a fee for custom application as a Commercial Pest Operator must hold a valid pest control operator's license.

- (b) Any person desiring to be licensed as a Pest Control Operator must meet the requirements of T.C.A. §§ 62-21-101 *et seq.*
- (c) Original certification expires at the end of five (5) years.
- (4) Categories of Commercial Applicators and Commercial Pest Control Operators.
 - (a) Agricultural Pest Control (C01)
 - 1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides in production of agricultural crops, including but not limited to tobacco, peanuts, cotton, feed grains, soybeans, forage, small fruits, tree fruits, nuts, grasslands, and noncrop agricultural land.
 - 2. Standards of Competency - Applicators must demonstrate a practical knowledge of the crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extension areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, and potential for environmental contamination, nontarget injury, and community problems resulting from the use of restricted use pesticides in agricultural areas.
 - (b) Forest Pest Control (C02)
 - 1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the forest, forest nurseries, and forest seed producing areas.
 - 2. Standards of Competency - Applicators shall demonstrate practical knowledge of the types of forests, forest nurseries, and seed production in this State and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basic for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must demonstrate practical knowledge of control methods that will minimize the possibility of secondary problems such as unintended effects on wildlife. Knowledge of proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.
 - (c) Ornamental and Turf Pest Control (C03)
 - 1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the maintenance and production of ornamental trees, including fruit trees, shrubs, flowers, turf, residential and commercial lawns, golf greens, athletic fields, and the like.
 - 2. Standards of Competency - Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other animals.
 - (d) Seed Treatment (C04)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides on seeds.
 2. Standards of Competency - Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents that influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.
- (e) Aquatic Pest Control (C05)
1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides in aquatic environments.
 2. Standards of Competency - Applicators shall demonstrate practical knowledge of the secondary effects, which can be caused by improper application rates, incorrect formulations, and faulty application, of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water-use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects, and other organisms, which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited-area application.
- (f) Right-of-Way Pest Control (C06)
1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas. This category includes the control of plants, whether woody or herbaceous, to industrial sites and rights-of-way including but not limited to highways, transmission lines, and drainage ditches.
 2. Standards of Competency - Applicators shall demonstrate practical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides, the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.
- (g) Industrial, Institutional, Structural and Health Related Pest Control (C07)
1. Description -This category includes commercial applicators using or supervising the use of general or restricted use pesticides in, on, and around food-handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private. This category also includes pesticide application for the protection of stored, processed, or manufactured products. This category further includes the control of birds and rodents.
 2. Standards of Competency - Applicators must demonstrate a practical knowledge of a wide variety of pests, including their life cycles, types of formulations appropriate for their control, and methods of application that avoid contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health-related pest control may involve

outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions particularly related to this activity.

(h) Public Health Pest Control (C08)

1. Description - This category includes all governmental employees and commercial applicators that use or supervise the use of pesticides relative to public health programs on public land and public waters that are not specifically covered by other categories of certification described herein.
2. Standards of Competency - Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. It is essential to know and recognize the wide variety of pests involved in this field. It is also essential to understand the pests' life cycles and habitats to develop a control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such nonchemical control methods as sanitation, waste disposal, and drainage.

(i) Demonstration and Research and Regulatory Pest Control (C10)

1. Description - This category includes state, federal, or other governmental employees who recommend, use or supervise the use of general or restricted use pesticides in the control of regulated pests. This category also includes individuals who conduct or supervise public demonstrations of proper use and application techniques for general or restricted use pesticides and persons conducting field research with pesticides that, in doing so, use or supervise the use of general or restricted use pesticides. Included in the first group are persons such as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes state, federal, commercial, and other persons conducting field research on or utilizing restricted use pesticides.
2. Standards of Competency - Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulations of pests, and the potential impact on the environments of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties since their services are frequently in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made in new situations.

(j) Wood Preservatives (C11)

1. Description - In general, it is expected that applicators of this category possess a practical knowledge of the specific standards required for categories (C01) through (C07) applicable to their particular activity. In addition, they shall meet the specific standards required for categories (C01) through (C07) of this section as may be applicable to that particular activity. Including the use or supervising the use of general or restricted pesticides.
2. Standards of Competency - Producers and applicators shall demonstrate practical and technical knowledge of wood preservatives. They should demonstrate knowledge in the type of pests being controlled. They must also demonstrate practical knowledge in the

methods of applying the preservatives to wood. Applicators should have knowledge of types of safety equipment necessary to protect those involved in the application as well as the aftereffects of application to plants, humans, pets, and other domestic animals.

(k) Pesticide Dealers (C12)

1. Description -This category is for persons who are engaged in wholesale or retail sales of restricted use pesticides. Each dealer location selling restricted use pesticides must have a certified dealer at that location. Each certified dealer shall be responsible for the actions of every person who acts as the dealer's employee or agent in the sale of restricted use pesticides. Persons holding a current Pesticide Dealer certification are allowed to purchase and use restricted use pesticides. This category does not allow for custom application of pesticides.
2. Standards of Competency - Pesticide Dealers shall demonstrate the practical knowledge to advise applicators and the public on the safe and effective use of pesticides. They shall also be expected to meet comprehensive standards reflecting a broad knowledge of pesticide uses. They shall also demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods.

(l) Antifouling Marine Paint (C13)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted use antifouling marine paints.
2. Standards of Competency - Applicators shall demonstrate practical knowledge of tributyltin product labels and understand why they are classified as restricted use pesticides. Applicators shall demonstrate knowledge of the health and environmental hazards associated with the use of antifouling paints. They shall demonstrate practical knowledge of the application and testing equipment and have knowledge of the need and use of personal protective equipment. In addition, applicators will demonstrate knowledge of proper storage, handling, transport, and disposal, including disposal of excess material, waste, and containers.

(m) Microbial Pest Control (C14)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted pesticides to control microorganisms (bacteria, fungi, algae, and viruses) in cooling towers and water treatment plants. This category also includes application in restoration treatments targeting mold and fungus
2. Standards of Competency - Applicators shall demonstrate practical knowledge of antimicrobial agents in the control of bacteria, fungi, algae and viruses. Applicators shall demonstrate knowledge of the health and environmental hazards associated with the use of antimicrobial agents in cooling towers, water treatment plants, and restoration treatments targeting mold and fungus. They shall demonstrate practical knowledge of the application and testing equipment and have knowledge of the need and use of personal protective equipment. They shall also demonstrate knowledge of proper storage, handling, transport and disposal including disposal of excess material, waste, and containers.

(n) Sewer Line Treatment (C16)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted use pesticides in sewer lines and wastewater treatment facilities.
2. Standards of Competency - Applicators shall demonstrate the practical knowledge of metam-sodium products for root control. Applicators shall demonstrate knowledge of health and environmental hazards associated with metam-sodium in sewer lines and wastewater treatment facilities. They shall demonstrate practical knowledge of the need to use personal

protective equipment. In addition, applicators will demonstrate the knowledge of proper storage, handling, transport, spills, cleanup, and waste disposal.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Rule 0080-06-16-.04 Recertification Requirements is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) After original certification expires, one must be recertified to use, apply, supervise, sell, or buy restricted use pesticides.
- (2) Private Applicator Recertification Requirements
Private Applicator - Successfully complete an instructional course offered by the University of Tennessee Extension Service beginning in January of the last year in the current certification period. Private Applicator certification shall expire on October 21st every third year.
- (3) Commercial Pesticide Applicator Certification Recertification Requirements
 - (a) All commercial pesticide applicators shall obtain the required continuing education credits (CEU's) in the category of certification or retest in the same category to maintain certification.
 - (b) Individuals becoming certified on or after July 1st of the third (3rd) year of the certification period will be rolled over to the next three-year recertification period.
 - (c) Each certification category shall require the following continuing education credits:
 1. Thirty (30) CEU's for certification category: C07 – Industrial, Institutional, Structural and Health Related Pest Control.
 2. Eighteen (18) CEU's for certification categories: C01 – Agricultural Plant and Animal, C03 – Ornamental Turf, C06 Right of Way, C08 – Public Health, C10 – Demonstration, Research and Regulatory Pest Control and C12 – Pesticide Dealer and LHA (Limited Herbicide Applicator)
 3. Twelve (12) CEU's for certification categories: C02 – Forest Pest Control, C04 – Seed Treatment, and C05 – Aquatic Pest Control.
 4. Nine (9) CEU's for certification categories: C11 – Wood Preservatives, C13 – Antifouling Marine Paint, C14 – Microbials, and C16 – Sewer Line Treatment.
 - (d) Continuing Education Units shall be prorated for those becoming certified during the recertification period.
 - (e) Continuing Education Units shall only be awarded for electronic media used in conjunction with a presentation as part of In-house training.
 - (f) Applications submitted by industry for training are required to be in the Tennessee Department of Agriculture office no later than 30 days prior to the date of the training session. Applications submitted by educational institutions shall be submitted to the University of Tennessee, Pesticide Safety Education Program (PSEP).
 - (g) All attendance rosters from industry and educational institutions are required to be submitted to the Department no later than 30 days after training. If training rosters are not received, sponsors and/or facilitators may not be approved for future training.
 - (h) The sponsor shall permit representatives from the Department or PSEP employees to attend training sessions without being assessed registration fees.

- (i) One (1) continuing education unit shall be warranted per hour for certification related topics.
- (j) In-house points will be limited to 50% of the total CEU requirement. Individuals may accrue half of their CEU's internally and the remaining half externally or accrue all of their CEU's by attending external meetings.
- (k) No more than 75% of the required continuing education units shall be accrued at any one external meeting.
- (l) Applicators shall be required to retest the third year if the required number of continuing education units is not obtained prior to the expiration date.
- (m) Applicators shall notify the Department in writing if there is a change in name or address.
- (n) Commercial Pesticide Applicator recertification shall expire every third year on December 31.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Rule 0080-06-16-.05 Record Keeping is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read.

C.F.R Title 7, Subtitle B, Chapter 1, Subchapter E, Part 110 – Recordkeeping on Restricted Use Pesticides By Certified Applicators; Surveys and Reports is adopted by reference by the Department of Agriculture as the state standards for pesticide recordkeeping for private applicators using restricted use pesticides.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Rule 0080-06-16-.07 Use of Restricted Use Pesticides is amended by adding the following new paragraphs:

- (6) No one holding a Pesticide Dealer certification shall sell, or allow the sale of, a restricted use pesticide to a noncertified person.
- (7) No one shall sell restricted use pesticides until that person is certified in the category of Pesticide Dealer and has obtained a Restricted Use Pesticide Dealer's license.
- (8) Restricted use pesticide sales records shall be submitted yearly with the renewal for Pesticide Dealer license.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Rule 0080-06-16-.09 Civil Fine Schedule is amended by deleting the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

Pursuant to the provisions of T.C.A. § 4-3-204(b), the following shall be the minimum and maximum amounts to be imposed as civil penalties for violations of the "Tennessee Insecticide, Fungicide and Rodenticide Act."

(1) LABEL VIOLATIONS	MINIMUM	MAXIMUM
(a) Lacks Signal Word or Caution: Keep out of Reach of Children	\$100.00	\$500.00
(b) Lacks Required Precautionary Labeling	\$100.00	\$500.00
(c) Deficient Precautionary Statements: Lacks Symbols or Statements	\$100.00	\$500.00
(d) Directions for Use.	\$100.00	\$500.00

(e)	Defective Ingredient Statement	\$100.00	\$500.00
(f)	Failure to Bear Required Statement of Net Weight or Content	\$50.00	\$500.00
(g)	Failure to Bear Name and Address of Producer, Registrant or Person for Whom Manufactured	\$50.00	\$500.00
(h)	Labeling Is Detached, Altered, Defaced or Destroyed	\$100.00	\$500.00
(i)	Ingredient Statement Absent on Immediate Container	\$100.00	\$500.00
(j)	Ingredient Statement Does Not Appear on Front Panel of Immediate Container	\$50.00	\$500.00
(k)	Label Does Not Bear a Registration Number or Established Number	\$50.00	\$500.00
(l)	Net Weight Not Stated on Label	\$50.00	\$500.00
(m)	Label Does Not Bear Name, Brand, or Trademark under Which Product Was Sold	\$50.00	\$500.00
(2)	FORMULATION VIOLATIONS		
(a)	Chemical Deficiencies	\$100.00	\$500.00
(b)	Net Weight	\$100.00	\$500.00
(c)	Chemical Contamination	\$100.00	\$500.00
(d)	Over Formulated	\$250.00	\$500.00
(3)	USE VIOLATIONS		
(a)	Use or Disposal of a Pesticide in a Manner Inconsistent with Its Labeling	\$250.00	\$500.00
(b)	Violation of Stop Sale, Use or Removal Order	\$250.00	\$500.00
(4)	RECORDS, BOOKS, DOCUMENTATION		
(a)	Failure to Maintain as Required By TIFRA and FIFRA	\$100.00	\$500.00
(b)	Failure to Produce for Inspection	\$250.00	\$500.00
(5)	REGISTRATION OF PRODUCTS		
(a)	Failure to Have Products Registered	\$100.00	\$500.00

Authority: T.C.A. §§43-8-106 and 62-21-118.

Chapter 0080-06-16
Regulations Governing Use of Pesticides

New

0080-06-16-.10 Pesticide Management and Disposal

- (1) The Department of Agriculture adopts herein by reference the current versions of 40 C.F.R. Part 165, Subpart A.
- (2) The Department of Agriculture adopts herein by reference the current version of 40 C.F.R. Part 165, Subpart E, as the State standards for pesticide containment structures.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Chapter 0080-06-27
Worker Protection

New

0080-06-27-.01 Definitions

Farm Labor Contractor means any person who hires or contracts for services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, but does not own, or is not responsible for, the management or condition of the agricultural establishment.

Authority: T.C.A. §§43-8-106 and 62-21-118.

0080-06-27-.02 Worker Protection Standard (WPS)

The Commissioner of Agriculture adopts by reference, including subsequent amendments, Part 170 of Title 40 of the Code of Federal Regulations titled Worker Protection Standards and Part 156 Subpart K of the Code of Federal Regulations titled Worker Protection Statements.

Authority: T.C.A. §§43-8-106 and 62-21-118.

0080-06-27-.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 Section.
- (4) The following may be grounds for suspension, revocation, or denial of WPS Trainer privileges:
 - (a) failing to follow the worker and handler training requirements prescribed in 40 C.F.R. §170.130(d)(1), §170.130(4), §170.230(c)(1) and §170.230(4);
 - (b) failing to maintain the training information prescribed in 0080-6-27-.03(2);
 - (c) acting as a trainer without authorization;
 - (d) failing to fulfill the requirements of the verification as prescribed in paragraph (2); or
 - (e) having had a similar authorization revoked, suspended, or denied in any jurisdiction within the last three years.

Authority: T.C.A. §§43-8-106 and 62-21-118.

0080-06-27-.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) the restrictions on entering a treated area, as specified in 40 C.F.R. § 170.120(d), if a treated area is within 1/4 mile of where workers will be working and the treated area is not posted as allowed or required in 40 C.F.R. §170.120(a), (b) and (c).
- (2) The farm labor contractor shall:
 - (a) post or provide workers in writing with the information in 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;
 - (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 where the worker is working and the treated area is not posted as allowed or required in 40 C.F.R. § 170.120(a), (b) and (c).

Authority: T.C.A. §§43-8-106 and 62-21-118.

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 12/05/2013, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/20/13

Rulemaking Hearing(s) Conducted on: 10/29/13

Date: 12/11/2013

Signature: *Julius Johnson*

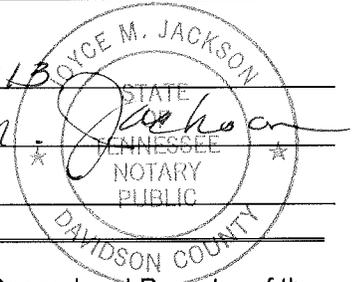
Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: Dec 11, 2013

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/11/2017



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

RE Cooper, Jr.
 Robert E. Cooper, Jr.
 Attorney General and Reporter
3-21-14
 Date

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Tre Hargett
 Tre Hargett
 Secretary of State

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 SECRETARY OF STATE

Public Hearing Comments

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



TENNESSEE DEPARTMENT OF AGRICULTURE

JULIUS JOHNSON
COMMISSIONER

REGULATORY SERVICES

October 29, 2013

Department of State
Division of Publications
8th Floor Snodgrass/TN Tower
312 Rosa L. Parks
Nashville, TN 37243

RE: Rulemaking Hearing October 29, 2013

I served as hearing officer for the Rulemaking Hearing on October 29, 2013 concerning 0080-06-16 Regulations Governing Use of Pesticides and 0080-06-27 Worker Protection.

There were no questions or comments from the public during the hearing.

Sincerely,

K. David Waddell /s/

K. David Waddell
Counsel

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) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

All pest control companies and individuals that hold a commercial certification are affected by these rules.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are 1429 licensed pest control companies in Tennessee. The vast majority of which are small businesses.

- (3) 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:

These rules do not impose additional reporting or recordkeeping not already required.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Fourteen (14) subcategories of certification are eliminated by these rules. The certification and recertification process is clarified and simplified. The pest control industry will have a less intrusive and less complicated licensing process. Consumers will still be assured pest control operators are qualified to do their jobs.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

A relaxation of any provision of these rules could cause the loss of the state authority to enforce pesticide rules instead of EPA.

- (6) Comparison of the proposed rule with any federal or state counterparts:

Pesticides are regulated by EPA. Upon application, states may be approved to carry out equivalent programs instead of direct enforcement by EPA. These rules represent Tennessee's approved equivalent enforcement program.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

The size of the business does not ameliorate the need for pesticides to be applied correctly and safely.

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)

These rule changes will not have an impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules are expanded to apply to the application of general use pesticides as well as restricted use pesticides. Fourteen subcategories of certification for pesticide application are eliminated to simplify the licensing process. The new rules regarding Worker Protection, Pesticide Containment, Pesticide Disposal and Recordkeeping for Private Applicators were adopted by reference to the Code of Federal Regulations so that the department could enforce these provisions at the state level in lieu of direct enforcement by EPA and USDA.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The certification of pesticide applicators is mandated by Federal law but the state has primacy under 40 C.F.R. § 171.7 to setup and maintain the program. The Commissioner of Agriculture has the power and duty to promulgate rules and regulations that are consistent with the requirements of EPA.

- (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 pest control operators that are licensed and certified are affected by these rules. The organizations that represent interests of the pesticide industry urge adoption of the revised rules.

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

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

There is no increase or decrease of revenues and expenditures.

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

Kathy Booker, Pesticide Administrator

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

David Waddell, Carol McDonald or Kathy Booker

- (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

David Waddell, 837-5331; david.waddell@tn.gov ; Carol McDonald; 837-5172; carol.mcdonald@tn.gov; Kathy Booker; 837-5133; kathy.booker@tn.gov

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

RULES
OF
DEPARTMENT OF AGRICULTURE
DIVISION OF PLANT INDUSTRIES- CONSUMER AND INDUSTRY Services
CHAPTER 0080-6-16
REGULATIONS GOVERNING USE OF
RESTRICTED USE PESTICIDES

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0080-6-16-.01 GENERAL

- (1) The Commissioner of Agriculture determines that the use and application of restricted use pesticides may affect public health and environment.
- (2) To use, buy or sell restricted use pesticides, an individual must be certified by the Commissioner or hold a valid pest control operator's license or act under the direct supervision of a licensee or certificate holder.

Authority: T.C.A. §62-2120(4).

0080-6-16-.02 DEFINITIONS.

- (1) CATEGORY - means an area of licensing or certification for which commercial applicators pest control operators of general or restricted use applicators are qualified. ~~Commercial applicators must be certified in one or more of these areas.~~
- (2) CERTIFIED APPLICATOR - means any individual who is certified by the Commissioner of Agriculture as authorized to use, buy, sell or supervise the use of general or restricted use pesticides.
- (3) COMMERCIAL APPLICATOR - means a person who uses or supervises the use of, sells or buys restricted use pesticides for any purpose, or for use on any property other than as defined under Private Applicator ~~or Commercial Pest Control Operator~~. Commercial applicators must be certified in the category of service being offered prior to taking the license examinations.
- (4) COMMERCIAL PEST CONTROL OPERATOR - means an individual who uses, supervises the use of, buys or sells restricted use pesticides for the purpose of engaging in custom application. a person or business entity who engages in the custom application of pesticides or inspection of real property for the purpose of issuing a wood destroying insect inspection report and who has demonstrated to the satisfaction of the pest control licensing and advisory board such person's qualifications to design and direct pest control and inspection operations.
- (5) CUSTOM APPLICATION - means the application of pesticides for a fee.

- (6) EXTERNAL TRAINING – means training conducted outside of a pest control operators place of business and open to anyone to attend training conducted by an outside presenter who is not employed by the pest control company making the training request.
- (7) General Use Pesticides – means a pesticide which may be purchased and used by individuals without obtaining any special certification or licensing.
- (8) IN-HOUSE TRAINING – means training that is conducted within the employer's place of business and attendance is limited to those employed by that specified company only. In-house training includes, but is not limited to internet training, computer-based CD-ROM or DVD training.
- (6) (9) PRIVATE APPLICATOR - means an individual who uses, supervises the use of or buys any pesticide which is classified for restricted use for purposes of producing an agricultural commodity on property owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
- (10) RECERTIFICATION – means the authorization every three (3) years by the commissioner to use, supervise the use of, sell, or buy general or restricted use pesticides.
- (11) RECIPROCITY – means an agreement between the Tennessee Department of Agriculture and state(s) that have similar laws and regulations for the purpose of obtaining certification only. All associated fees are the responsibility of the applicator.
- (7)(12) RESTRICTED USE PESTICIDE - means any pesticide classified for restricted use by the Commissioner of Agriculture.
- (8) ~~SUBCATEGORY~~ – means an area of certification for commercial pest control operators.
- (13) RESTRICTED USE PESTICIDE DEALER – means an individual certified in the certification category of Pesticide Dealer who wholesales or retails restricted use pesticides.
- (9)(14) UNDER THE DIRECT SUPERVISION - means any application or sale of a pesticide by a competent person certified applicator acting under the instructions and control of an a private applicator, commercial applicator or commercial pest control operator who is available if and when needed. even though such certified applicator is not physically present at the time and place the pesticide is applied or sold An application or sale is under the direct supervision of an applicator or operator if the applicator or operator is physically present or in direct communication by conventional means of communication.

Authority: T.C.A. §62-2120(4), §§43-8-106 and 62-21-118.

0080-6-16-.03 CERTIFICATION REQUIREMENTS.

(1) REQUIREMENTS FOR CERTIFICATION AS A PRIVATE APPLICATOR CERTIFICATION REQUIREMENTS

- (a) Successfully complete a specialized training session provided by the University of Tennessee Extension Service teaching the proper use of restricted use pesticides. Send a copy of the three-part form signed by the extension agent verifying the completion of

training to the Tennessee Department of Agriculture with appropriate fee (s) as outlined in T.C.A. § 43-1-703.

- (b) Be certified to use restricted use pesticides in any other state having comparable certification requirements. Individuals who hold a current certification from another state must apply for a reciprocal Private Applicator card with the Tennessee Department of Agriculture.
- (c) If one meets the requirements of certification then that certification expires on October 21, four years after October 21 following original certification. Private applicator certification expires on October 21 of the 3rd year of the certification period.
- (d) All individuals must be 16 years of age and be a U.S. Citizen or possess a current VISA or other proof of qualified alien status prior to becoming privately certified.

(2) REQUIREMENTS FOR CERTIFICATION AS A COMMERCIAL APPLICATOR.

- (a) Pass a written examination on general knowledge of pesticides, offered by the Tennessee Department of Agriculture. This examination entails pest identification, application techniques, safety in handling, mixing, and applying pesticides, environmental hazards in using pesticides, knowledge and responsibilities under Tennessee and Federal Statutes and regulations, and labels and labeling comprehension. Pass a specific written examination in the category in which applicant desires to be certified, or
- (b) Be certified to use restricted use pesticides in any other state having comparable certification requirements.
- (c) If one meets the requirements of certification as a commercial applicator then that certification expires on October 21, four years after the October 21 following original certification.

COMMERCIAL PESTICIDE APPLICATOR CERTIFICATION REQUIREMENTS

- (a) All individuals must be 16 years of age and be a U.S. Citizen or possess a current VISA or other proof of qualified alien status prior to becoming a commercial pesticide applicator.
- (b) Complete a commercial certification exam application form and submit to the commissioner with appropriate fees as outlined in T.C.A. § 43-1-703.
- (c) Applicant must score seventy (70) percent or higher to pass the commercial certification exam.
- (d) Individuals who cannot take a scheduled examination due to circumstances beyond their control must contact the Department within forty-eight (48) hours of the scheduled examination to reschedule or their examination fee shall be forfeited.
- (e) Individuals who fail the certification exam will have a two (2) week waiting period before being rescheduled.
- (f) Individuals exhibiting unethical behavior during an examination shall fail the test and be ineligible to take the certification exam for one (1) year.
- (g) Individuals who possess a certification from another state which has a reciprocal agreement with the Tennessee Department of Agriculture will be issued a commercial pesticide applicator certification card. The applicant shall submit a copy of the front and back of the

current applicator card issued by the reciprocating state along with the reciprocity application form furnished by the commissioner.

(h) Commercial applicator certification expires on December 31st of the 3rd year of the certification period.

(3) REQUIREMENTS FOR CERTIFICATION AS A COMMERCIAL PEST CONTROL OPERATOR.

(a) Anyone who charges a fee for custom application as a Commercial Pest Operator must hold a valid pest control operator's license.

(b) Any person desiring to be licensed as a Pest Control Operator must meet the requirements of T.C.A.. §§ ~~62-2404~~ 62-21-101 et seq.

(c) Original certification expires at the end of five (5) years.

(4) ~~CATEGORIES AND SUBCATEGORIES IN WHICH OF COMMERCIAL APPLICATORS AND COMMERCIAL PEST CONTROL OPERATORS ARE CERTIFIED.~~

(a) Agricultural Pest Control (C01)

1. Description -This category includes commercial applicators using or supervising the use of general or restricted use pesticides in production of agricultural crops, including ~~without limiting the foregoing~~ but not limited to, tobacco, peanuts, cotton, feed grains, soybeans, and forage; small fruits, tree fruits and nuts, as well as ~~on~~ grasslands and non-crop agricultural land.

2. Standards of Competency-Applicators must demonstrate a practical knowledge of the crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extension areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems resulting from the use of restricted use pesticides in agricultural areas.

3. ~~Subcategories~~

(i) ~~Weed Control-Agricultural~~

(I) ~~Description-This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides in the control of plants, whether woody or herbaceous, by the application generally classed as herbicides to planted and/or cultivated crops or to land otherwise used in agricultural production.~~

(II) ~~Standards of Competency-Applicators shall demonstrate practical and technical knowledge of all types of weeds encountered in the production of agricultural crops and formulations of pesticides used in their control. They must also demonstrate a practical knowledge of the time, placement, soil types, type of crops being treated and at the same time provide maximum protection for the environment around the area being treated.~~

(ii) Agricultural-Ground Equipment

- (I) Description This subcategory includes commercial pest control operators using or supervising the use of pesticides in the control of insects, fungi, bacteria, and weeds in the production of agricultural crops. Agricultural fumigation is excluded from this category.
- (II) Standards of Competency Applicators must demonstrate practical and technical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Their competency must be demonstrated in type and quantity of pesticide needed to control the various pests encountered. Practical knowledge is required in run-off or drift problems and the environmental contamination that could occur.

(iii) Fumigation-Agricultural

- (I) Description This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticide fumigants in the control of soil pests in the production of agricultural crops.
- (II) Standards of Competency Applicators shall demonstrate practical and technical knowledge of fumigants used in the fumigation of agricultural soils, the type of pests being controlled, such as weeds, fungi, insects, bacteria, and nematodes. They must also demonstrate practical knowledge of time and placement of applications, types of safety equipment necessary to protect those involved in application and the residual effect fumigants may have on the crop being treated.

(i) Agricultural – Animal

- (I) Description This sub-category includes commercial applicators using or supervising the use of pesticides directly to animals for the control of pests and diseases.
- (II) Standards of Competency – Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment.

(b) Forest Pest Control (C02)

1. Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf. forest, forest nurseries, and forest seed producing areas.
2. Standards of Competency-Applicators shall demonstrate practical knowledge of the types of forests, forest nurseries, and seed production in this State and the pests involved. They should possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to the pesticides to be applied. Because forest stands may be large and frequently include natural aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on wildlife. Knowledge of proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

(c) Ornamental and Turf Pest Control (C03)

- (a) Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the maintenance and production of ornamental trees, including fruit trees, shrubs, flowers, turf, residential and commercial lawns, golf greens, athletic fields and the like.
2. Standards of Competency-Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other animals.

3. ~~Subcategories~~

(i) ~~Lawn and Turf Maintenance~~

(I) ~~Description-This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides for the control of pests of turf such as that found in lawns, golf greens, athletic fields and the like.~~

(II) ~~Standards of Competency-Applicators shall demonstrate practical and technical knowledge of pesticide problems associated with the production and maintenance of lawn and turf. Due to close proximity of other plant materials and human habitation to application activities, applicators in this category must demonstrate practical knowledge of application methods which minimize or prevent hazards to plants, humans, pets, and other domestic animals.~~

(ii) ~~Horticultural~~

~~(I) Description-This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides for the control of pests and diseases of shrubs, trees (including fruit trees) and the like, encountered in pest control services on the grounds of clubs, institutions, residences, orchards, etc.~~

~~(II) Standards of Competency-Applicators must demonstrate practical and technical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, and other herbaceous plants (including fruit trees) in and around buildings, parks, orchards, and plant nurseries. Because of the frequent proximity of humans during application activities, applicators must demonstrate in this category practical knowledge of application methods which will minimize or prevent hazards to humans, pets, and other animals.~~

(d) Seed Treatment (C04)

1. Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides on seeds.
2. Standards of Competency-Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

(e) Aquatic Pest Control (C05)

1. Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides in aquatic environments.
2. Standards of Competency- Applicators shall demonstrate practical knowledge of the secondary effects, which can be caused by improper application rates, incorrect formulations, and faulty application, of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms, which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.

(f) Right-of-Way Pest Control (C06)

1. Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides to control pests in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas. This category includes the control of plants, whether wood or herbaceous, to industrial sites and rights-of-way such as but not limited to highways, transmission lines, and drainage ditches.

2. Standards of Competency-Applicators shall demonstrate practical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.

3. ~~Subcategories~~

(i) ~~Weed Control-Right-of-Way and Industrial~~

(I) ~~Description-This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides for the control of plants, whether wood or herbaceous, to industrial sights and rights-of-way such as, but not limited to highways, transmission lines, drainage ditches, etc. These chemicals may be desiccants, defoliants, growth regulators, soil sterilizing agents, and the like.~~

(II) ~~Standards of Competency-Applicators must demonstrate practical and technical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate knowledge of herbicides used in weed control around industrial sites and rights-of-way. They shall demonstrate knowledge on runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of herbicides such as how they kill plants and the impact of their application activities in the adjacent areas and communities.~~

(g) Industrial, Institutional, Structural and Health Related Pest Control (C07)

1. Description-This category includes commercial applicators using or supervising the use of general or restricted use pesticides in, on, and around food handling establishments, human dwellings, institutions, such as schools and hospitals, industrial establishments, including warehouses and grain elevators, and any other structures and adjacent area, public or private; and for the protection of stored, processed, or manufactured products. This category includes the control of birds and rodents.

2. Standards of Competency - Applicators must demonstrate a practical knowledge of a wide variety of pests including their life cycles, types of formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitat and exposure of people and pets. Since human exposure, including babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions particularly related- to this activity.

3. Subcategories

(i) Wood Destroying Organisms

(I) Description This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides for the control of termites, various wood borers, carpenter bees, carpenter ants, and decay without regard to the type or use or structure involved. Control of silverfish, mealworms, roaches, etc., which may damage wood or wood products infrequently, are not included in this subcategory.

(II) Standards of Competency Applicators must demonstrate practical and technical knowledge of pests that destroy wood and wood products, their life cycles, types of damage, and the type of pesticide formulations used in their control. Since there are human and animal exposure during and after treatment, they must demonstrate practical knowledge in the use and placement of pesticides in and around structures to protect humans, other animals and the environment.

(ii) General Pest Control and Product Control (Household and Commercial)

(I) Description This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides to control those pests encountered in or about residences (homes, apartments, etc.) and commercial operations (stores, motels, office buildings, etc.) This subcategory does not include those pests specifically included in other subcategories, such as bird control or termite control.

(II) Standards of Competency Applicators in this category must demonstrate practical and technical knowledge of a wide variety of pests including life cycles, living habits, and the types and kind of food they desire. Since these applications will be made in homes and all types of commercial buildings, where humans, pets, and foods are involved, applicators must know how to make application of pesticides to control these pests and at the same time provide maximum protection to people, pets, food, and their environment.

(iii) General Pest Control and Rodent Control (Non-restricted)

(I) Description This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticide to control those vertebrate or invertebrate pests encountered in or about industrial, manufacturing, or processing plants, dumps, warehouses, institutions, hospitals, schools, residences, stores, motels, office buildings, or such other operations as may be subject to regulatory practices from such agencies as the U.S. Food and Drug Administration, the U.S. Department of Agriculture or the Interstate Commerce Commission. This category does not include those pests specifically covered by other categories such as termite control, weed control, bird control, etc.

(II) Standards of Competency Applicators must demonstrate practical and technical knowledge of a wide variety of pests including

their life cycles, living habits, the types of formulations appropriate for their control and methods of application that will avoid contamination of food, habitat, and exposure of people and pets. Since these pests are encountered in or about residences (homes and apartments, etc.), industrial, manufacturing, or processing plants, dumps, warehouses, institutions, hospitals, schools, and areas arraign these buildings, applicators must demonstrate a practical knowledge of the placement of pesticides so as to provide maximum protection for the environment and at the same time control their pests.

(iv) — Fumigation-Non-restricted

(I) — Description—This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticide fumigants in the control of structural pests and pests found in all types of buildings, ships, boxcars, trailers, and other additional sites other than agricultural land.

(II) — Standards of Competency—Applicators shall demonstrate practical and technical knowledge of the application of all types of fumigants used in industrial, manufacturing, or processing plants, warehouses, institutions, food storage areas, ships, boxcars, and other structures where pest may occur. They shall also demonstrate practical knowledge of the necessary equipment for application, safety equipment for the protection of the applicator, and the protection for those areas around the site being fumigated. Since many foods are involved, applicators must demonstrate his or her knowledge of using the proper fumigant to kill the target pest and at the same time not contaminate foods and other products that may be used for human and other animal consumption.

(v) — Fumigation-Structural and Commercial

(I) — Description—This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticide fumigants in the control of structural pests and pests found in and commercial buildings.

(II) — Standards of Competency—Applicators must demonstrate practical and technical knowledge in the application of fumigants and the effects it has on the control of structural pests and pests found in commercial buildings. They shall also demonstrate practical knowledge of the necessary application equipment, safety equipment necessary to protect the applicator and protecting the area around the site being fumigated. Since food and fiber is often encountered in warehousing areas, the applicator must demonstrate practical knowledge of the type of fumigants that can be used safely and no contaminate food and fiber used for human or other animal consumption.

(vi) — Bird Control

(I) — Description—This subcategory includes commercial pest control operators using or supervising the use of restricted use pesticides for the control of pest birds.

(II) — Standards of Competency—Applicators shall demonstrate practical and technical knowledge in the identification of

protected and non-protected species, types of control measures, both chemical and mechanical devices and the habitat where birds live. Applicators shall also demonstrate practical knowledge of how pesticides used in bird control affects the environment. This is very important in bird control since most bird roosts occur in wooded and urban areas near their food supply.

(vii) Consulting Entomologist

- (I) Description - This subcategory includes commercial pest control operators offering consulting services with reference to insect pests and other entomological problems. Licensing in this subcategory does not authorize the performance of control work.
- (II) Standards of Competency - He or she must demonstrate practical knowledge of insect pests and the problems they may create wherever infestations occur. He or she must demonstrate practical knowledge of insect life cycles, control measures, stages in life cycles in which control is best achieved quantities of pesticides needed to effectively control the pests involved, and how the use of pesticides may or may not affect the environment.

(h) Public Health Pest Control (C08)

- 1. Description - This category includes all governmental employees and commercial applicators who use or supervise the use of pesticides relative to public health programs on public land and public waters and which are not specifically covered by other categories of certification described herein. in public health programs or in the commercial application of pesticides for the management and control of pests having medical and public health importance.
- 2. Standards of Competency - Applicators shall demonstrate practical knowledge of vector-disease transmission as it relates to and influences application programs. A wide variety of pests is involved, and it is essential that they be known and recognized, and appropriate life cycles and habitats be understood as a basis for control strategy. These applicators shall have practical knowledge of a great variety of environments ranging from streams to those conditions found in buildings. They should also have practical knowledge of the importance and employment of such non-chemical control methods as sanitation, waste disposal, and drainage.

(i) Demonstration and Research and Regulatory Pest Control (C10)

- 1. Description - This category includes State, Federal, or other governmental employees who recommend, use or supervise the use of general or restricted use pesticides in the control of regulated pests. This category also includes: (1) individuals who conduct or supervise public demonstrations of demonstrate to the public the proper use and application techniques of for application of general or restricted use pesticides or supervise such demonstration, and (2) persons conducting field research with pesticides, and that in doing so, use or supervise the use of general or restricted use pesticides. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals

demonstrating methods used in public programs. The second group includes: State, Federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.

2. Standards of Competency - Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide organism interactions and the importance of integrating pesticide use with other control methods. Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulations of pests, and the potential impact on the environments of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate duties since their services are frequently in other areas of the country where emergency measures are invoked to control regulated pests, and where individual judgments must be made in new situations.

(j) Wood Preservatives (C11)

1. Description - In general, it is expected that applicators of this category possess a practical knowledge of the specific standards required for categories (a) (C01) through (t) (C07) above applicable to their particular activity. In addition, they shall meet the specific standards required for categories (a) (C01) through (t) (C07) of this section as may be applicable to that particular activity. Including the use or supervising the use of general or restricted pesticides.
2. Standards of Competency - Producers and applicators shall demonstrate practical and technical knowledge of wood preservatives. They should demonstrate knowledge in the type of pests being controlled. They must also demonstrate practical knowledge in the methods of applying the preservatives to wood. Applicators should have knowledge of types of safety equipment necessary to protect those involved in the application as well as the after effects of application to plants, humans, pets, and other domestic animals.

(k) Pesticide Dealers (C12)

1. Description -This category is for persons who are engaged in wholesale or retail sales of restricted use pesticides. Each dealer location selling restricted use pesticides must have a certified dealer at that location. Each certified dealer shall be responsible for the actions of every person who acts as the dealer's employee or agent in the sale of restricted use pesticides. Persons holding a current Pesticide Dealer certification are allowed to purchase and use restricted use pesticides. This category does not allow for custom application of pesticides.
2. Standards of Competency - Persons would demonstrate the practical knowledge to advise applicators and the public on the safe and effective use of pesticides. They shall also be expected to meet comprehensive standards reflecting a broad knowledge of pesticide uses. They shall also demonstrate an understanding of

pesticide-organism interactions and the importance of integrating pesticide use with other control methods.

(l) Antifouling Marine Paint (C13)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted use antifouling marine paints.
2. Standards of Competency - Applicators shall demonstrate practical knowledge of TBT product labels and understand why they are classified as RUP. Applicators shall demonstrate a knowledge of the health and environmental hazards associated with the use of antifouling paints. They shall demonstrate practical knowledge of the application and testing equipment and have knowledge of the need and use of personal protective equipment. In addition, applicators will demonstrate knowledge of proper storage, handling, transport, and disposal including disposal of excess material, waste, and containers.

(m) Microbial Pest Control (C14)

1. Description - This category includes commercial applicators using or supervising the use of general or restricted pesticides to control microorganisms (bacteria, fungi, algae and viruses) in cooling towers, water treatment plants, restoration treatments targeting mold and fungus.
2. Standards of Competency - Applicators shall demonstrate practical knowledge of antimicrobial agents in the control of bacteria, fungi, algae and viruses. Applicators shall demonstrate knowledge of the health and environmental hazards associated with the use of antimicrobial agents in cooling towers, water treatment plants, and restoration treatments targeting mold and fungus. They shall demonstrate practical knowledge of the application and testing equipment and have knowledge of the need and use of personal protective equipment. They shall also demonstrate knowledge of proper storage, handling, transport and disposal including disposal of excess material, waste and containers.

(n) ~~Trainer, Worker Protection Standard~~

- ~~1. Description - This category includes private and commercial applicators who train workers and handlers of pesticides. The trainer must be able to teach all the subjects required in the Standards of Competency (below). Trainers must be able to train pesticide handlers, workers, and early entry workers.~~
 - ~~(i) Pesticide handlers include those who (1) are employed (including self-employed) for any type of compensation by an agricultural establishment or a commercial pesticide handling establishment that uses pesticides in the production of agricultural plants on a farm, forest, nursery, or greenhouse; and (2) are doing any of the following tasks: mixing, loading, transferring or applying pesticides; handling opened containers of pesticides; acting as a flagger, cleaning, handling, adjusting, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues; assisting with the application of pesticides, including incorporating the pesticide into the soil after the application has occurred, entering a greenhouse or other enclosed area after application of pesticides; entering a treated outdoor area after application of any soil~~

fumigant to adjust or remove soil coverings, performing tasks as a crop advisor; and disposing of pesticides or pesticide containers.

- (ii) ~~Workers include those who (1) are employed (including self-employed) for any type of compensation and (2) are doing tasks such as harvesting, weeding, or watering relating to the production of agricultural plants on a farm, forest, nursery or greenhouse.~~
- (iii) ~~Early entry workers include those who enter treated areas prior to the expiration of a restricted entry interval and come in contact with anything that has been treated with a pesticide, including soil, water, air and plant surfaces in three work situations: (1) short-term tasks that last less than one (1) hour and do not involve hand labor, (2) tasks that are necessary because of an agricultural emergency, and (3) specific tasks approved by the Environmental Protection Agency through a formal exception process.~~

2. ~~Standards of Competency – Any person seeking certification in this category must be certified as a commercial or private applicator in Tennessee.~~

- (i) ~~A trainer shall be able to present general pesticide information to workers either orally, from written materials, or audiovisually in a manner that the workers can understand (such as through a translator). The trainer shall also be able to respond to workers questions. The pesticide safety training materials must include, at a minimum, the following subjects: (1) Format and meaning of information contained on pesticide labels and in labeling, (2) Hazards of pesticides resulting from toxicity and exposure. (3) Routes through which pesticides can enter the body, (4) Signs and symptoms of common types of pesticide poisoning, (5) Emergency first aid for pesticide injuries or poisoning, (6) How to obtain emergency medical care, (7) Routine and emergency decontamination procedures, including eye flushing. (8) Hazards from chemigation and drift, (9) Hazards from pesticide residues on clothing, (10) Warnings about taking pesticides or containers home. (11) Precautions to reduce the risks of illness or injury resulting from workers occupational exposure to pesticides including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.~~
- (ii) ~~A trainer shall be able to present general pesticide information to handlers either orally, from written materials, or audiovisually in a manner that the handlers can understand. The trainer shall also be able to respond to handlers questions. The pesticide safety training materials Must include, at a minimum, the following subjects: (1) Format and meaning of information contained on pesticide labels and in labeling, (2) Hazards of pesticides resulting from toxicity or exposure, (3) Routes through which pesticides can enter the body, (4) Signs and symptoms of common types of pesticide poisoning, (5) Emergency first aid for pesticide injuries or poisoning, (6) How to obtain emergency medical care, (7) Routine and emergency decontamination procedures, (8) Need for and appropriate use of personal protective equipment, (9) Prevention, recognition, and first aid treatment of heat-related illness, (10) Safety requirements for handling, transporting storing, and disposing of pesticides, including general procedures for spill cleanup, (11)~~

Environmental concerns such as drift, runoff, and wildlife hazards, (12) Warnings about taking pesticides or pesticide containers home, and (13) Requirements that must be followed by the handlers' employers for the protection of handlers and other persons, including (a) the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, (b) the requirement to use personal protective equipment, (c) the provisions for training and decontamination, and (d) protection against retaliatory acts.

(iii) — A trainer shall be able to present general pesticide information to early entry workers either orally, from written materials, or audiovisually in a manner that the early entry workers can understand. The trainer shall also be able to respond to early entry workers questions. The pesticide safety training materials must include, at a minimum, the same information that must be taught to workers and, in addition, the trainer must instruct early entry workers (1) how to put on, use, and take off early entry personal protective equipment (PPE) correctly, (2) the importance of washing thoroughly after removing PPE, (3) how to prevent, recognize, and give first aid for heat stress, and (4) when and what kind of decontamination site must be provided to early entry workers.

1. ~~Those who are certified as trainers must keep a roster of names and addresses of those who the trainer personally trained.~~

Sewer Line Treatment (C16)

1. Description – This category includes commercial applicators using or supervising the use of general or restricted use pesticides in sewer lines and wastewater treatment facilities.
2. Standards of Competency - Applicators shall demonstrate the practical knowledge of metam-sodium products for root control. Applicators shall demonstrate a knowledge of health and environmental hazards associated with metam-sodium in sewer lines and wastewater treatment facilities. They shall demonstrate practical knowledge of the need to use personal protective equipment. In addition, applicators will demonstrate the knowledge of proper storage, handling, transport, spills, cleanup, and waste disposal.

Authority: T.C.A. §§43-8-106 and 62-21-118.

0080-6-16-.04 RECERTIFICATION REQUIREMENTS.

- (1) After original certification expires one must be recertified, to use, apply, supervise, sell or buy restricted use pesticides, or be a certified technician one must be recertified.
- (2) Requirements for Recertification Private Applicator Recertification Requirements
 - (a) Private Applicator - Successfully complete an instructional course offered by the University of Tennessee Extension Service beginning in January of the last year in the current certification period. within the last two years of the current certification period. Private Applicator certification shall expire on October 21st every third year.
 - (3)(b) Restricted Use Applicator Commercial Pesticide Applicator Recertification Requirements

- (a)4. Acquire a specified number of points during the current certification period. Points will be awarded for attending conferences, programs, seminars, etc., which will present information pertinent to the individual's certification category. The sponsors of the meetings awarding the recertification points must send a copy of the program to the Tennessee Department of Agriculture, and it must meet guidelines approved by the Department, or- All commercial pesticide applicators shall obtain the required continuing education credits (CEU's) in the category of certification or re-test in the same category to maintain certification.
- (b)2. Pass updated written examination. These requirements must be completed with every fifth licensing year. Individuals becoming certified on or after July 1st of the third (3rd) year of the certification period will be rolled over to the next 3 year recertification period.
- (c) Each certification category shall require the following continuing education credits (CEU's)
1. Thirty (30) CEU's for certification category: C07 – Industrial, Institutional, Structural and Health Related Pest Control.
 2. Eighteen (18) CEU's for certification categories: C01 – Agricultural Plant and Animal, C03 – Ornamental Turf, C06 Right of Way, C08 – Public Health, C10 – Demonstration, Research and Regulatory Pest Control and C12 – Pesticide Dealer and LHA (Limited Herbicide Applicator)
 3. Twelve (12) CEU's for certification categories: C02 – Forest Pest Control, C04 Seed Treatment, and C05 Aquatic Pest Control.
 4. Nine (9) CEU's for certification categories: C11 Wood Preservatives, C13 Antifouling Marine Paint, C14 Microbials, and C16 Sewer Line Treatment.
- (d) Continuing Education Units shall be prorated for those becoming certified during the recertification period.
- (e) Continuing Education Units shall only be awarded for electronic media used in conjunction with a presentation as part of In-house training.
- (f) Applications submitted by industry for training are required to be in the Tennessee Department of Agriculture office no later than 30 days prior to the date of the training session. Applications submitted by educational institutions shall be submitted to the University of Tennessee, Pesticide Safety Education Program (PSEP).
- (g) All attendance rosters from industry and educational institutions are required to be submitted to TDA no later than 30 days after training. If training rosters are not received, sponsors and/or facilitator's may not be approved for future training.
- (h) The sponsor shall permit representatives from TDA and/or UT PSEP employees to attend training sessions without being assessed registration fees.

- (i) One (1) continuing education unit shall be warranted per hour for certification related topics.
- (j) In-house points will be limited to 50% of the total CEU requirement. Individuals may accrue half of their CEU's internally and the remaining half externally or accrue all of their CEU's by attending external meetings.
- (k) No more than 75% of the required continuing education units shall be accrued at any one external meeting.
- (l) Applicators shall be required to retest the third year if the required number of continuing education units are not obtained prior to the expiration date.
- (m) Applicators shall notify the department in writing if there is a change in name or address.
- (n) Commercial Pesticide Applicator recertification shall expire every third year on December 31.

Authority: T.C.A. §§43-8-106, 62-21-118

0080-6-16-.05 RECORD KEEPING.

- ~~(1) All commercial applicators and commercial pest control operators shall keep true and accurate records and retain such for a period of two (2) years and make these available on demand to the Commissioner of Agriculture or his designee.~~
- ~~(2) These records must show:~~
 - ~~(a) Pesticide used.~~
 - ~~(b) Target pest.~~
 - ~~(c) What crop, plant, house, business or building pesticide is applied on or to and location thereof.~~
 - ~~(d) Dosage rate.~~
 - ~~(e) The landowner, producer or other person employing such applicator.~~
 - ~~(f) Date used.~~
 - ~~(g) Amount of pesticide applied.~~

Authority: T.C.A. §62-21-20(4).

C.F.R Title 7, Subtitle B, Chapter 1, Subchapter E, Part 110 – Recordkeeping on Restricted Use Pesticides By Certified Applicators; Surveys and Reports is adopted by reference by the Department of

Agriculture as the state standards for pesticide recordkeeping for private applicators using restricted use pesticides.

Authority: T.C.A. §§43-8-106 and 62-21-118.

0080-6-16-.06 DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATION.

The Commissioner of Agriculture may revoke, suspend, or deny certification or licenses after proper hearing as a contested case under the "Administrative Procedures Act" (T.C.A. 4-514), for violation of any statute, rule or regulation concerning the use, purchase or sale of pesticides.

Authority: T.C.A. §62-2120(4). Administrative History: Original rule filed October 7, 1977; effective November 7, 1977.

0080-6-16-.07 USE OF RESTRICTED USE PESTICIDES.

- (1) No one may use or buy a restricted use pesticide unless certified as a Private Applicator or a Commercial Applicator, or unless licensed as a Commercial Pest Control Operator by the Commissioner of Agriculture.
- (2) No person shall use a pesticide in a manner inconsistent with its labeling.
- (3) No person shall act as a private applicator unless he is certified as such by the Commissioner of Agriculture.
- (4) No person shall act as a commercial applicator unless certified by the Commissioner of Agriculture as such and he may only act in the category in which he is certified.
- (5) No person shall act as a Commercial Pest Control Operator unless he holds a valid Pest Control Operator's license and may only act in the category which he is licensed.
- (6) No one holding a Pesticide Dealer certification shall sell a restricted use pesticide to a non-certified person.
- (7) No one shall sell restricted use pesticides until certified in the category of Pesticide Dealer and obtain a Restricted Use Pesticide Dealer's license.
- (8) Restricted use pesticide sales records shall be submitted yearly with the renewal for Pesticide Dealer license.

Authority: T.C.A. §62-2120(4).

0080-6-16-.08 EXEMPTIONS.

Individuals licensed under T.C.A. 43-2901 et seq. are exempt from the provisions of these regulations while engaged in the commercial aerial application of pesticides.

Authority: T.C.A. §62--2120(4).

0080-6-16-.09 CIVIL FINE SCHEDULE.

Pursuant to the provisions of T.C.A. 4-3-204(b), the following shall be the minimum and maximum amounts to be imposed as civil penalties for violations of the "Tennessee Insecticide, Fungicide and Rodenticide Act".

(1) LABEL VIOLATIONS	MINIMUM	MAXIMUM
(a) Lacks Signal Word and/or Caution: Keep Out of Reach of Children	\$100.00	\$500.00
1. Toxicity Level-Danger	\$150.00	\$500.00
2. Toxicity Level-Warning	125.00	500.00
3. Toxicity Level-Caution	100.00	500.00
(b) Lacks Required Precautionary Labeling. MINIMUM-MAXIMUM	\$100.00	\$500.00
1. Adverse Effects-Probable	\$250.00	\$500.00
2. Adverse Effects-Unknown	200.00	500.00
3. Adverse Effects-Not Probable	100.00	500.00
(c) Deficient Precautionary Statements: Lacks Symbols and/or Statements. \$100.00 \$500.00		
1. Highly Toxic Material	\$250.00	\$500.00
(d) Deficient Precautionary Statements: Lacks Symbols and/or Statements. \$100.00 \$500.00		
1. Toxicity Level-Danger	\$150.00	\$500.00
2. Toxicity Level-Warning	125.00	500.00
3. Toxicity Level-Caution	100.00	500.00
(e) Unwarranted Statements With Respect to Product Safety.		
1. False or Misleading Safety Claim.		
(i) Adverse Effects - Probable	\$200.00	\$500.00
(ii) Adverse Effects - Unknown	175.00	500.00
(iii) Adverse Effects - Not Probable	150.00	500.00
2. Claims Differ From Those Accepted in Connection With Product Registration		
(i) Claims Unacceptable	\$200.00	\$500.00
(ii) Claims Acceptable	175.00	500.00
(iii) Economic Fraud	150.00	500.00
(fd) Directions For use.	\$100.00	\$500.00
1. Inadequate Directions.		
(i) Likely to result in misuse and/or mishandling	\$250.00	\$500.00

	(ii) Likelihood of misuse and/or mishandling unknown	200.00 500.00
	(iii) Not likely to result in misuse and/or mishandling	150.00 500.00
	(iv) Result in illegal residues	200.00 500.00
2.	Directions For Use Differ From Those Accepted In Connection With Product Registration	
	(i) Mishandling and/or misuse – likely	\$250.00 \$500.00
	(ii) Likelihood of mishandling and/or misuse – Unknown	200.00 500.00
	(iii) Likelihood of mishandling and/or misuse – Not Likely	150.00 500.00
(ge)	Defective Ingredient Statement	<u>\$100.00</u> <u>\$500.00</u>
1.	Totally Lacking.	
	(i) Toxicity Level – Danger	\$250.00 \$500.00
	(ii) Toxicity Level – Warning	200.00 500.00
	(iii) Toxicity Level – Caution	150.00 500.00
2.	Formulation Differs (supported by chemical analysis) MINIMUM MAXIMUM	
	(i) Adverse Effects – Probable	\$250.00 \$500.00
	(ii) Adverse Effects – Unknown	200.00 500.00
	(iii) Adverse Effects – Not Probable	150.00 500.00
(f)	Failure To Bear Required Statement Of Net Weight Or Content	\$50.00 \$500.00
(g)	Failure To Bear Name And Address Of Producer, Registrant Or Person For Whom Manufactured	\$50.00 \$500.00
(h)	Labeling Is Detached, Altered, Defaced Or Destroyed	\$100.00 - \$500.00
	1. Adverse Effects – Probable	\$150.00 \$500.00
	2. Adverse Effects – Unknown	100.00 500.00
	3. Adverse Effects – Not Probable	75.00 500.00
(i)	Ingredient Statement Absent On Immediate Container	\$100.00 - \$500.00
(j)	Ingredient Statement Does Not Appear On Front Panel Of Immediate Container	\$50.00 - \$500.00
(k)	Label Does Not Bear A Registration Number Or Established Number	\$50.00 - \$500.00
(l)	Net Weight Not Stated On Label	\$50.00 - \$500.00

(m)	Label Does Not Bear Name, Brand, Trademark Under Which Product Was Sold	\$50.00 - \$500.00
(2)	FORMULATION VIOLATIONS	
(a)	Chemical Deficiencies	\$100.00 - \$500.00
	1. Adverse Effects - Probable	\$250.00 - \$500.00
	(e) Adverse Effects - Unknown	200.00 - 500.00
	3. Adverse Effects - Not Probable	150.00 - 500.00
(b)	Net Weight.	<u>\$100.00 - \$500.00</u>
	1. Not stated on label	\$50.00 - \$500.00
	2. Less than stated on label	\$50.00 - 500.00
(c)	Chemical Contamination.	<u>\$100.00 - \$500.00</u>
	1. Significant levels	\$250.00 - \$500.00
	2. Trace levels	\$175.00 - 500.00
(d)	Highly Over Formulated	<u>\$250.00 - \$500.00</u>
	1. Adverse Effects - Probable	\$250.00 - \$500.00
	2. Adverse Effects - Unknown	\$200.00 - 500.00
	3. Adverse Effects - Not Probable	\$150.00 - 500.00
(3)	USE VIOLATIONS	
(a)	Use Or Disposal Of A Pesticide In A Manner Inconsistent With Its Labeling. <u>\$250 - \$500</u>	
	1. Adverse Effects - Probable	\$250.00 - \$500.00
	2. Adverse Effects - Unknown	\$200.00 - 500.00
	3. Adverse Effects - Not Probable	\$150.00 - 500.00
(b)	Violation of Stop Sale, Use Or Removal Order	\$250.00 - \$500.00
(c)	Chemical Contamination.	
	1. Significant levels	\$250.00 - \$500.00
	2. Trace levels	\$175.00 - 500.00

(4) RECORDS, BOOKS, DOCUMENTATION

- | | | |
|-----|--|-------------------|
| (a) | Failure to Maintain As Required By TIFRA And FIFRA | \$100.00 \$500.00 |
| (b) | Failure To Produce For Inspection | \$250.00 \$500.00 |

(5) REGISTRATION OF PRODUCTS

- | | | |
|-----|--|----------------------------|
| (a) | <u>Failure To Have Products Registered</u> | <u>\$100.00 - \$500.00</u> |
|-----|--|----------------------------|

Authority: T.C.A. §§4-3-204 and 43-8-107.

Chapter 0080-06-16
Regulations Governing Use of Pesticides

New

0080-06-16-.10 Pesticide Management and Disposal

- (1) The Department of Agriculture adopts herein by reference the current versions of 40 C.F.R. Part 165, Subpart A.
- (2) The Department of Agriculture adopts herein by reference the current version of 40 C.F.R. Part 165, Subpart E, as the State standards for pesticide containment structures.

Authority: T.C.A. §§43-8-106 and 62-21-118.

Chapter 0080-06-27
Worker Protection

New

0080-06-27-.01 Definitions

Farm Labor Contractor means any person who hires or contracts for services of workers for any type of compensation, to perform activities related to the production of agricultural plants, but does not own or is responsible for, the management or condition of the agricultural establishment.

Authority: T.C.A. §§43-8-106 and 62-21-118..

0080-06-27-.02 Worker Protection Standard (WPS)

The Commissioner of Agriculture adopts by reference, including subsequent amendments, Part 170 of Title 40 of the Code of Federal Regulations titled Worker Protection Standards and Part 156 Subpart K of the Code of Federal Regulations titled Worker Protection Statements.

Authority: T.C.A. §§43-8-106 and 62-21-118..

0080-06-27-.03 WPS Trainer Requirements

- (1) Persons currently certified as an private applicator of general or restricted use pesticides or certified as a commercial applicator in categories CO1, CO3 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;
 - (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 Section.
- (4) The following may be grounds for suspension, revocation, or denial of WPS Trainer privileges:
 - (a) failing to follow the worker and handler training requirements prescribed in 40 C.F.R. §170.130(d)(1), §170.130(4), §170.230(c)(1) and §170.230(4).
 - (b) failing to maintain the training information prescribed in 0080-6-27-.03(2)
 - (c) acting as a trainer without authorization.
 - (d) failing to fulfill the requirements of the affidavit as prescribed in subsection (2).
 - (e) having had a similar authorization revoked, suspended or denied in any jurisdiction within the last 3 years.

Authority: T.C.A. §§43-8-106 and 62-21-118..

0080-06-27-.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) the restrictions on entering a treated area as specified in 40 C.F.R. § 170.120(d), if a treated area is within 1/4 mile of where workers will be working and the treated area is not posted as allowed or required in 40 C.F.R. §170.120(a), (b) and (c), the farm labor contractor shall:
 1. post or provide worker(s) in writing, with the information in 40 C.F.R. § 170.122, or shall post or provide the worker in writing, the specific location of the central posting site for each agricultural establishment on which the worker will be working;
 2. provide worker(s) with restrictions on entering a treated area as specified in 40 C.F.R. § 170.120(d) if the treated area on the agricultural establishment where a worker will be working is within 1/4 mile of where the worker is working, and the

treated area and is not posted as allowed or required in 40 C.F.R. § 170.120(a), (b) and (c).

Authority: T.C.A. §§43-8-106 and 62-21-118.