

Rule 0080-6-15-.02 Denial of License is amended by deleting the rule in its entirety and substituting the following language so that as that the amended rule shall read:

0080-6-15-.02 DENIAL OF LICENSE

The Commissioner of Agriculture may deny licensing to applicants not meeting the requirements for certification and/or licensing or for violations of the rules or statutes concerning the use, purchase or sale of pesticides. Provided however, any person denied such certification or licensure may contest sure decision by requesting a hearing as a contested case under the “Administrative Procedures Act” (Tenn. Code Ann. §§ 4-5- 301 et seq).

Authority: T.C.A.. §§43-8-301 through 43-8-309.

The proposed rules set out herein were properly filed in the Department of State on the 21st day of April, 2003, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 28th day of August, 2003. (04-23)

**THE DEPARTMENT OF AGRICULTURE - 0080
DIVISION OF REGULATORY SERVICES**

**CHAPTER 0080-6-21
ADMINISTRATIVE FEES**

**CHAPTER 0080-2-7
DIAGNOSTIC FEES**

Presented herein are proposed amendments and new rules of the Division of Regulatory Services, Department of Agriculture submitted pursuant to Tenn. Code Ann. § 4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Agriculture to promulgate these amendments and rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed amendments and new rules are published. Such petition to be effective must be filed with the Department of Agriculture, P. O. Box 40627, Ellington Agricultural Center, Nashville, Tennessee 37204, and in the Department of State, Publications Division, 8th Floor, William R. Snodgrass Tennessee Tower, 312 Eighth Avenue North, Nashville, Tennessee 37243-0307, and must be signed by twenty-five (25) persons who will be affected by the amendments and new rules, or submitted by a municipality which will be affected by the amendments and new rules, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments and new rules, contact: Patricia Clark, General Counsel, Department of Agriculture, P.O. Box 40627, Nashville, Tennessee 37204, 615-837-5093.

The text of the proposed amendments is as follows:

AMENDMENTS

Part 2 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “one hundred dollars - (\$100.00)”, and substituting the words and figures “Two hundred dollars - (\$200.00)”, so that the amended part shall read:

1. Greenhouse grown plants certification
Two Hundred Dollars - (\$200.00)

Authority: *T.C.A. §§4-3-203 and 43-1-703.*

Subpart (i) of Part 2 of paragraph 1 of Rule 0080-6-21-.01 Administrative Fee is amended by deleting the following language, “Exempt from fee as a hobbyist.” and by adding the following language, “One hundred dollars - (\$100.00)”, so that as amended the part shall read:

- (i) Greenhouse grown plants being grown in areas less than
600 square feet.
One hundred dollars - (\$100.00)

Authority: *T.C.A. §§4-3-203 and 43-1-703.*

Part 4 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “One hundred dollars - (\$100.00)” and substituting “Two hundred dollars - (\$200.00)”, so that as amended the part shall read:

4. Native wild plant certification
Two Hundred Dollars - (\$200.00)

Authority: *T.C.A. §§4-3-203 and 43-1-703.*

Part 5 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, “One hundred dollars - (\$100.00)” and substituting “Two hundred dollars - (\$200.00)”, so that as amended the part shall read:

5. Native wild plant dealer
Two Hundred Dollars - (\$200.00)

Authority: *T.C.A. §§4-3-203 and 43-1-703.*

Part 6 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the part in its entirety and substituting the following language so that as amended the part shall read:

6. Nursery stock certification
Two Hundred Dollars - (\$200.00)
 - (i) Nursery stock grown in areas less than 600 square feet.
One hundred dollars – (\$100.00)

(ii) The following persons are exempt from the fees imposed under Tenn. Code Ann. § 43-1-703 (f)(8), the greenhouse plant certification fee, or any licensure or plant certification fee established by this rule:

(I) Any person engaged in the production of tobacco seedlings, and any farmer who produces and sells plants or seedlings in connection with such person's farming operations, but who is not primarily engaged in the business of producing and selling plants or seedlings. For purposes of this chapter, "not primarily engaged" means receipts from selling plants or seedlings do not exceed 15% of gross farm receipts for the average of the two previous years or one year if the operation has only been in existence for one year, as shown in federal tax return documents.

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 10 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

10. Turfgrass certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 11 of Subparagraph (a) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

11. Vegetable plant certification
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Subparagraph (b) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "one hundred dollars - (\$100.00)" and substituting "Two hundred dollars - (\$200.00)", so that as amended the part shall read:

(b). Plant dealer certificates (each):
Two Hundred Dollars - (\$200.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Part 1 of Subparagraph (b) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the words and figures, "twenty-five - (\$25.00)" and substituting "thirty dollars - (\$30.00)", so that as amended the part shall read:

1. Plant dealers that sell only annual plants and cover an area equal to or less than 100 square feet of space with plant materials.
Thirty Dollars - (\$30.00)

Authority: T.C.A. §§4-3-203 and 43-1-703.

Subparagraph (c) of paragraph (1) of Rule 0080-6-21-.01 Administrative Fees is amended by deleting the subparagraph in its entirety and substituting the following language so that as amended the rule shall read:

- (c). Phytosanitary certificates (each):
 Equivalent to federal U.S. Department of Agriculture, Animal Health
 Inspection Service (USDA APHIS) fees in 7 CFR Part 354.3.

Authority: T.C.A. §§4-3-203 and 43-1-703.

NEW RULES

CHAPTER 0080-2-7 DIAGNOSTIC FEES

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0080-2-7-.01 BACTERIOLOGY

The fees for bacteriologic testing are twelve dollars (\$12.00) for the first specimen, then six dollars (\$6.00) per specimen thereafter per case, plus six dollars (\$6.00) per isolate for antibiotic sensitivity tests.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.02 IMMUNOLOGY

The fees for immunologic testing are twelve dollars (\$12.00) per test, per sample.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.03 VIROLOGY

The fees for virologic testing are fifteen dollars (\$15.00) per test.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.04 PATHOLOGY

The fees for pathological examination are as follows:

- (a) Necropsy \$35.00 per animal

(b) Histopathology	\$24.00 per animal
(c) Submitter special stain	\$12.00 per slide
(d) Cytology	\$15.00 per tissue
(e) Extra slide preparation	\$ 8.00 per slide
(f) Bone marrow evaluation	\$15.00 per case
(g) Necropsy plus toxicology	\$60.00 per animal per case

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.05 TOXICOLOGY

The fees for toxicological testing are twenty-five dollars (\$25.00) for the first test, then twelve dollars (\$12.00) per test thereafter per case.

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-2-7-.06 MISCELLANEOUS CHARGES

Other miscellaneous fees are calculated as follows:

(a) Mailing	Cost of Service
(b) Handling fee	\$2.00
(c) Sample supplies	Cost plus 10%
(d) Courier	Cost of Service
(e) Past due accounts	2.0% per month
(f) New test development	Cost of Service

Authority: T.C.A. §43-1-703.

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