

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 05-20-13  
Rule ID(s): 5481-5484  
File Date: 5/31/13  
Effective Date: 10/29/13

# Proposed Rule(s) Filing Form

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

**Agency/Board/Commission:** Tennessee Department of Agriculture  
**Division:** Regulatory Services  
**Contact Person:** K. David Waddell  
**Address:** P.O. Box 40627  
**Zip:** 37204  
**Phone:** 615-837-5331  
**Email:** [david.waddell@tn.gov](mailto:david.waddell@tn.gov)

**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
0080-06-02	Regulations Governing Strawberry Plant Growers and Dealers
0080-06-05	Certification of Irish Potatoes
0080-06-09	Camellia Flower Blight Quarantine
0080-06-18	Vegetable Plant Certification

Chapter 0080-06-02  
Regulations Governing Strawberry Plant Growers and Dealers  
Repeal

Chapter 0080-06-02 Regulations Governing Strawberry Plant Growers and Dealers is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

Chapter 0080-06-05  
Certification of Irish Potatoes  
Repeal

Chapter 0080-06-05 Certification of Irish Potatoes is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

Chapter 0080-06-09  
Camellia Flower Blight Quarantine  
Repeal

Chapter 0080-06-09 Camellia Flower Blight Quarantine is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

Chapter 0080-06-18  
Vegetable Plant Certification  
Repeal

Chapter 0080-06-18 Vegetable Plant Certification is hereby repealed by deleting the chapter in its entirety.

Authority: T.C.A. § 43-6-104.

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

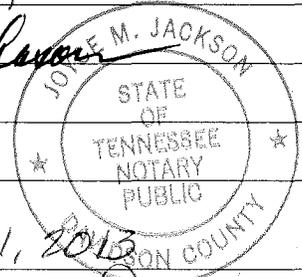
I certify that this is an accurate and complete copy of a proposed rule(s), lawfully promulgated and adopted.

Date: March 11, 2013

Signature: *Julius Johnson*

Name of Officer: Julius Johnson

Title of Officer: Commissioner



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

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013

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

*Robert E. Cooper, Jr.*

Robert E. Cooper, Jr.  
Attorney General and Reporter

5-9-13

Date

Department of State Use Only

Filed with the Department of State on: 5/31/13

Effective on: 10/29/13



Tre Hargett  
Secretary of State

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## 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:

Plant growers and dealers are subject to the proposed amendment. Small businesses will not bear any cost or realize any benefit from the proposed amendment.

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

There are no businesses subject to the proposed rule repeal.

- (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:

There will be no reporting, recordkeeping or other administrative costs with the repeal of these rules.

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

The proposed repeal would not affect small businesses and consumers.

- (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:

The repeal these chapters will make the rules of the department less burdensome and intrusive.

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

There is no federal counterpart..

- (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.

All business will be relieved of the requirements of these chapters.

## 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)

If adopted, these rules will not have any impact on the expenditures or revenue of local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to TCA 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;

The proposed repeal of these chapters will remove antiquated and irrelevant rules.

- (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;

There is no federal law or regulation that mandates promulgation of these rules.

- (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;

Growers and dealers in plants would be most directly affected if the repeal of these rules were approved. Such groups would not oppose repeal of these rules.

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

There are no attorney general and reporter opinions or judicial rulings directly relating to these rules.

- (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 will be no increase or decrease in state and local government revenues and expenditures resulting from the promulgation of this rule.

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

K. David Waddell, Tennessee Department of Agriculture, Division of Regulatory Services, Legal Counsel

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

K. David Waddell, Tennessee Department of Agriculture, Division of Regulatory Services, Legal Counsel

- (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

Tennessee Department of Agriculture, Ellington Agricultural Center, P.O. Box 40627, Nashville, TN 37204. Office number: 615-837-5331, david.waddell@tn.gov

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

**RULES  
OF  
TENNESSEE DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRIES**

**CHAPTER ~~0080-6-9~~  
CAMELLIA FLOWER BLIGHT QUARANTINE**

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0080-6-9-.03 Prohibited Products  
0080-6-9-.04 Conditions Governing Shipment of Restricted Products  
0080-6-9-.05 Penalty~~

**~~0080-6-9-.01 PEST.~~** Camellia Flower Blight (*Sclerotinia camelliae*).

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**~~0080-6-9-.02 QUARANTINED AREAS.~~**

~~(1) Infected Areas:~~

~~(a) California: Entire State~~

~~(b) Georgia:~~

~~1. Fulton County:~~

~~That property known as 3629 Tuxedo Road, located in the Northwest section of Atlanta, consisting of eleven acres, bounded on the north by Tuxedo Road, on the east by the property of J. M. Sheffield, on the west by the property of Hix Green, and on the south by the property of Robert F. Jones.~~

~~2. Richmond County:~~

~~That portion of the City of Augusta bounded by a line beginning at the intersection of Katherine Street and Walton Way and extending north along Katherine Street to the intersection of Cumming Street; thence east and southeast along Cumming Street to intersection of Hickman Road; thence southwest along Hickman Road to intersection of Walton Way to intersection of Heard Avenue; thence southeast and south along Heard Avenue to intersection of Richmond Avenue; thence west along Wrightsboro Road to Anthony Road; thence north along Anthony Road to~~

intersection of Central Avenue; thence west along Central Avenue to Stoval Street intersection; thence north along Stoval Street to south boundary of U.S. Arsenal; thence west along south boundary to west boundary; thence north along west boundary to north boundary; thence east along north boundary to Katherine Street.

(c) Louisiana:

1. Caddo Parish:

That portion of the City of Shreveport bounded on the north by Dalzell Street; on the south by East 60th Street and Sherwood Drive, on the east by Gilbert Avenue and on the west by the Kansas City Southern Railway.

2. Ouachita Parish:

That portion of the City of Monroe bounded on the north by Lidell Avenue; on the south by Moore Avenue and a line extending from Moore Avenue to the Missouri Pacific Railway; on the east by the Missouri Pacific Railway and on the west by South Grand Street and/or U. S. Highway 165 and that portion of the City of Monroe bounded on the north by Mulberry Street and Louise Anne Avenue thence out Louise Anne Avenue to South First Street thence down South First Street to the Missouri Pacific Railway; on the south by Pear Street; on the east by the Missouri Pacific Railway; and on the west by the Ouachita River.

3. Orleans Parish:

That portion of the City of New Orleans bounded on the north by Feret Street; on the south by the Mississippi River; on the east by Calhoun Street; and on the west by Hillary Street.

(d) North Carolina:

1. Brunswick County:

That part of Orton Plantation beginning at the main entrance to Orton Plantation on Highway N. C. 130 and extending north along said highway one mile, thence due east to Cape Fear River, thence south along Cape Fear River for two miles, thence due west to Highway N. C. 130 and along said highway 130 north to main entrance to Orton Plantation.

Beginning at a point on the west bank of Cape Fear River east of and in line with the main Residence Building on Pleasant Oak Plantation and extending north along said river one mile; thence along a straight line due west for one mile; thence south along a line parallel to and one mile west

of said river for two miles; thence due east to said river and along west bank of river north to starting point This property is located east of N. C. Highway 130, 7 miles south of Junction of Highway 130 and 17.

2. New Hanover County:

All that property known as Airlie Gardens and Nursery, located on both sides of U. S. Highway 74 and 76 just west of Wrightsville Sound. That portion of the City of Wilmington bounded on the north by Market Street; on the east by the city limit line; on the south by a line one-half mile south of and parallel to the city limit line; and on the west by South 17th Street.

3. Onslow County

That portion of Onslow County included within the boundaries of Camp LeJeune Marine Base.

4. Wilson County:

That area included within a circle having a one-mile radius with the center at the entrance to Tomlinson's Nursery. This property is located 2.2 miles from the Wilson City limits on Highway 264 East.

~~(e) Oregon: Entire State.~~

~~(f) Virginia: Entire State.~~

~~(2) Restricted Areas:~~

~~All other states that do not maintain restrictions against the movement of restricted material from designated infected states or areas into their respective states.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-9-03 PROHIBITED PRODUCTS.** Balled and potted camellia plants and cut camellia flowers may not be moved into Tennessee from the infected areas.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-9-04 CONDITIONS GOVERNING SHIPMENT OF RESTRICTED PRODUCTS**~~

~~(1) — Camellia plants free from soil will be admitted from the infected areas when accompanied by certificate issued by a duly authorized official of the state of origin certifying that the buds showed no trace of color at the time of shipment.~~

- (2) — ~~Restricted material from states that do not maintain restrictions against the designated infected areas may be shipped in Tennessee only when the grower, dealer, or nurseryman furnishes satisfactory evidence that he will not receive any camellia plants with soil attached, and buds showing any trace of color and/or camellia flowers from the infected areas.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~  
~~**0080-6-9-.05 PENALTY.**~~

- (1) — ~~Any person, firm, or corporation who shall violate any of the provisions of this quarantine shall be deemed guilty of a misdemeanor under Section 12 of the Plant Pest Act of 1955, and shall be liable to the penalties prescribed therein.~~
- (2) — ~~All quarantines, rules and regulations made prior to the date of this quarantine relative to Camellia Flower Blight are hereby revoked.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

**RULES  
OF  
TENNESSEE DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRIES**

**CHAPTER 0080-6-5  
CERTIFICATION OF IRISH POTATOES**

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0080-6-5-.06 Cultural Conditions 0080-6-5-.14 Standards for Growers  
0080-6-5-.07 Diseased Plants  
0080-6-5-.08 Storage~~

~~**0080-6-5-.01 APPLICANTS.** Any person, firm or corporation may apply for seed certification provided the grower plants certified seed or foundation seed approved by the Division of Insect and Plant Disease Control, Tennessee Department of Agriculture, and agrees to abide by all rules and regulations governing the production of certified seed. Application for certification service should be made on or before March 1st to the Division of Insect and Plant Disease Control, State Capitol, Nashville's Tennessee.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.02 COST OF TAGS AND SEALS.** The grower will bear the cost of the tags and seals, usually amounting to 1 1/2 to 2 cents per 100 lb. bag. No other fees are required.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.03 FIELDS.** The potatoes must be planted in a field in which potatoes have not been grown for at least three years. The field must be not less than 200 feet distant from any other non-certified potato field of the current year. If two or more varieties are grown for certification they must be separated by at least 10 feet.~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~**0080-6-5-.04 TREATMENT OF SEED POTATOES.** The seed potatoes must be properly treated at the time of planting. This treatment should be done under the supervision of one~~

~~*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*~~

~~0080-6-5-.05 SPRAYING.~~ The potatoes must be sprayed or dusted in order to keep the field as free as possible from insects and diseases. Spraying should be started when potatoes are about 6 inches high and continued weekly throughout the growing season.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-5-.06 CULTURAL CONDITIONS.~~ Fields showing poor cultural conditions, including lack of weed control, may be disqualified.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

~~0080-6-5-.07 DISEASED PLANTS.~~ All diseased plants, including the tubers, must be rogued as soon as they are observed. The plants rogued out, including tubers, must be removed from the field.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 15, 1974.~~

~~0080-6-5-.08 STORAGE.~~ Potatoes must be stored in dry storage, either in regular potato storage house or basement, properly ventilated. Conditions should be such that freezing or overheating will be prevented. Excessive sprouting in storage may disqualify for certification. All potatoes over-stored in the ground will be disqualified.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 1974.~~

~~0080-6-5-.09 TWO INSPECTIONS.~~ There will be two field inspections at a time most favorable for identification of diseases and insects, distributors of diseases. In addition, there will be a bin inspection at harvest time and another just prior to grading and sacking.

~~Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~

#### ~~0080-6-5-.10 DISEASE TOLERANCES.~~

Disease tolerances:

	Field Inspections	
	1st	2nd
Mosaic	2%	1%
Leaf roll	2%	1%
Spindle tuber	2%	1%
Notal virus	4%	3%
Fusarium wilt	2%	1%
Black log	2%	1%
Bacterial ring rot	0	0
Varietal mixture	1%	0

Early Blight)

**Late Blight) If present to such an extent that identification of virus diseases cannot be made, the field will be disqualified.**

Storage Inspections

	Bin	Prior to grading
Rhizoctonia	5%	5%
Seab	5%	5%
Spindle tuber	2%	1%
Bacterial ring rot	0	0
Storage rots	3%	2%
Nematode	0	0
Late blight rot	2%	1%
Varietal mixture	1%	0

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-5-11 SIZE.**

**Size -- U. S. Standard No. 1 or 2--**

U. S. No. 1 — Minimum size 1 7/8 inches in diameter.  
Maximum size 10 oz. in weight.

U. S. No. 2 — Minimum size 1 1/2 inches in diameter.  
Maximum size 2 inches in diameter.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-5-12 SAMPLES OF SEEDS.** Samples of all seed which are officially sealed and tagged may be required and planted in a place designated by the inspector to enable him to check on the quality of the grower's seed stock. This will also serve to protect the grower against possible complaints.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-5-13 SACKS AND TAGGING.** To be eligible for official seal and tag, potatoes shall be sold in NEW approved sacks (such as are customarily used for commercial shipments of potatoes) containing one hundred (100) pounds net weight. Each sack shall be tagged and sealed with the official tags issued for "Tennessee State Certified Seed Potatoes" for the current year.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-5-.14 STANDARDS FOR GROWERS.**

- (1) — ~~Growers fulfilling the above requirements will be qualified for certification, which signifies the following standards: This grade shall consist of one variety of potatoes certified by the Division of Insect and Plant Disease Control, State Department of Agriculture. The tubers must be true to varietal name, mature, well shaped, free from freezing or over heating injury, and reasonably free from dirt, sunburn, second growth and growth cracks, and deep cuts. Potatoes must conform to tolerances already set forth where rot or evidence of disease or insect injury is present.~~
  
- (2) — ~~In order to allow for variations incident to proper grading and handling, not more than five (5) per cent by weight of any lot may be below the prescribed size, and, in addition, not more than six (6) per cent by weight, may be below the requirements of the specified grade, but not to exceed one sixth (1/6) of this six (6) per cent tolerance shall be allowed for potatoes affected by any storage rot.~~

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**RULES  
OF  
TENNESSEE DEPARTMENT OF AGRICULTURE  
PLANT INDUSTRIES**

**CHAPTER ~~0080-6-2~~  
REGULATIONS GOVERNING STRAWBERRY PLANT GROWERS AND DEALERS**

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~~0080-6-2-.10 Penalties~~  
~~0080-6-2-.11 Previous Regulations~~

**~~0080-6-2-.01 TENNESSEE CERTIFIED PLANTS.~~**

- (1) ~~No strawberry plants shall be sold, offered, stored, or held for sale, or transported within or into the State of Tennessee unless they shall have been certified as being essentially free of insect pests and plant diseases by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture or by a legally constituted agency designated for such purpose in other states, territories, or counties. The requirements for certification of strawberry plants in the State of Tennessee are as follows:~~
- ~~(a) — Application for certification shall be made to the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture on or before March 15 of each calendar year.~~
  - ~~(b) — Only first year fields set from certified parent plants are eligible for certification.~~
  - ~~(c) — Fields offered for certification must be well cultivated and be maintained essentially free of weeds and grasses. Fields not so maintained or in which the plant stands are very thin will not be certified.~~
  - ~~(d) — Fields offered for certification must be on soil in which red stele disease (Phytophthora fragariae) has not been known to occur, and which has not been subjected to drainage or other contamination from soil known to be infested with red stele disease.~~

- (e) — Fields offered for certification shall be inspected at least twice each year. One inspection shall be made in the Spring to be completed by May 30 and another inspection shall be made in the Fall to be completed by November 15. As many other inspections will be made in the fields and at packing, shipping, and storage locations as individual circumstances warrant and require. When in the judgment of the Director of Entomology and Plant Pathology and inspection at time of digging is necessary to determine the certifiable status of plants in a field offered for certification, he shall so notify the owner or producer of said plants. It shall then be the responsibility of the owner or producer to notify the Director of Entomology and Plant Pathology of the date that digging of the plants will commence. Notice of digging shall be given by the owner or producer to the Director of Entomology and Plant Pathology, or his agents or representatives, as early as practicable, but at least 24 hours in advance of the date that digging will commence. Strawberry plants being held or stored for subsequent sale shall be subject to inspection at any time during the holding or storage period. The owner of such plants shall be required to furnish information as to the location at which the plants are held or stored and to furnish, during reasonable business hours, facilities (such as adequate lighting, labor for moving crates, etc.) for their inspection.
- (f) — Fields offered for certification shall have no discernible mixture of varieties. When more than one variety is grown, the varieties must be separated by a clean, cultivated strip at least six feet wide. Any off variety plants occurring in a field or block must be removed by the grower. If such off variety plants are satisfactorily eliminated, the field or block may be eligible for certification.
- (g) — Plants certified must be maintained essentially free of insect pests and plant diseases. Plants certified must not exceed the following tolerances on any one inspection or on a combination of all inspections:
1. — Red stele disease — none
  2. — Crimp (foliar nematode disease) — none
  3. — Root knot, root gall, root lesion, dwarf, or decline caused by root nematodes — none, infestation is general. If infestation is localized and plants in local infestations are destroyed, the planting may be eligible for certification.
  4. — Crown borer, weevil, aphid, root worm, leaf roller — 1% provided the grower or owner satisfactorily eliminated the pest by insecticidal or other treatment.
  5. — Leaf variegation (such as Blakemore yellows) — 1% provided that all visibly affected plants are eliminated by the grower.

6. ~~Leaf spot or scorch~~—must not be heavy or general in fields offered for certification.
  7. ~~Crinkle or other viruses~~—none. Any planting containing plants visibly affected will be summarily disqualified.
  8. ~~Not limited by the above, any seriously injurious plant pest or disease appreciably damaging to the strawberry or capable of being spread to new areas by the movement of strawberry plants.~~
- (2) ~~All strawberry plants sold, offered for sale, held or stored for subsequent sale, traded, delivered, distributed, shipped, or offered for shipment, shall bear on each bundle of plants a tag showing the certificate number and/or the grower's name and address and the variety of such plants. In addition such strawberry plants shall be viable and shall be stored, packed, and handled in such a way as to give reasonable assurance of such plants being in living condition when delivered to the ultimate purchaser.~~

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

#### **0080-6-2-.02 TENNESSEE REGISTERED PLANTS.**

- (1) ~~Tennessee Registered plants are hereby defined as "essentially virus free" plants produced in accordance with the rules and regulations herein prescribed. Tennessee Registered plants shall meet all the requirements of "Tennessee Certified" plants as set forth above and in addition must meet the following special requirements:~~
  - (a) ~~Planting shall originate with foundation stock that has had the prior approval of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. A grower may continue to propagate as "Registered" stock any variety that is not more than two years removed from "Foundation" stock provided no virus has been detected in the planting and provided further that the planting is maintained continuously under rules and regulations governing the production of "Registered" stock.~~
  - (b) ~~Planting sites on which it is proposed to produce Tennessee Registered plants must be isolated from other strawberry plantings to the extent practicable considering terrain and the extent of land holdings by the grower, and the degree of isolation shall always be subject to the approval of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. Failure or inability to provide sufficient isolation shall be grounds for disqualification of a planting.~~
  - (c) ~~Growers of "Tennessee Registered" plants will be required to maintain all plants produced by them in the "Registered" category unless they have secured a prior exemption from this requirement from the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture, Exemptions will be granted only for~~

limited amounts of those varieties for which Foundation stock is not available at the time the request for exemption is made and such exempted varieties must be grown under such conditions and precautions as may be prescribed by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture.

- (d) — Plantings offered for certification as “Tennessee Registered” stock shall be treated with insecticide for the control of aphids that spread the strawberry virus complex, at such intervals and using such formulations and quantities of materials as shall be recommended by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture, or by the University of Tennessee Experiment Station. Said Director will approve or accept alternative control programs when in his opinion the materials are equivalent in purpose and effect. Records of insecticide and fungicide applications shall be kept by the grower and made available to the Director of Entomology and Plant Pathology or his representative.
1. — Neglect or failure in application of required controls or in keeping the required records shall constitute grounds for disqualification of the planting. Finding of an appreciable or generally distributed population of vector aphids within a field shall summarily disqualify the planting.
- (e) — Plants shall be selected from fields offered for certification as “Tennessee Registered” stock for indexing by the Director of Entomology and Plant Pathology or his representative at such times and in such quantity as he shall determine. Detection of virus shall summarily disqualify the planting provided that, if the grower have other blocks or varieties that are so located in relation to the infected block that in the opinion of the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture possibilities of contamination are remote, such other blocks or varieties may not necessarily be disqualified if the infected block or variety be immediately destroyed by the grower and such other precautions as shall be prescribed by the Director of Entomology and Plant Pathology shall be carried out.
- (f) — Plants produced in accordance with the requirements of this section will be certified as “Registered Certified Plants.” The certification shall state that the plants, have been produced from foundation stock that is essentially free from known viruses and that the plants have been grown under conditions that reduce the probability of field contamination to a minimum, and that the plants are believed to be free of any appreciable amounts of virus infection.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

#### **0080-6-2-.03 TENNESSEE FOUNDATION PLANTS**

- (1) — Strawberry “Foundation” plants or stock are hereby defined as strawberry plants which have been determined by State or Federal experiment stations or other authorized agencies as being free from all known viruses and propagated or maintained under such

conditions as to preclude the introduction of viruses in accordance with the rules and regulations herein prescribed. Foundation plants must meet all the pertinent requirements for Tennessee Certified and Tennessee Registered plant as set forth in Sections 0080-6-2-.01 and 0080-6-2-.02 above, and in addition must conform to the following rules and regulations:

- (a) — Plants, used for the production of Foundation stock, must be approved by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture prior to planting.
- (b) — Planting sites on which it is proposed to maintain or propagate Foundation stock must be approved by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture. Such sites shall be either fields isolated from all other strawberry plants whether cultivated or wild by a distance of at least three thousand feet or tightly screened houses. Soil in Foundation planting sites shall be fumigated or otherwise sterilized using materials and methods prescribed or accepted by the Director of Entomology and Plant Pathology of the Tennessee Department of Agriculture.
- (c) — Plants (10 or more per acre) shall be taken from Foundation stock by the Director of Entomology and Plant Pathology for indexing. Plants for indexing will be collected periodically but at least once each year from each such planting. Finding of virus infected plants shall immediately disqualify the foundation planting.
- (d) — Foundation stock when sold, shall bear on each bundle or bunch of plants a tag showing the growers name, address and certificate number and the variety of the plants.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

#### **0080-6-2-.04 REGULATION OF DEALERS.**

(1)

- (a) — It shall be illegal for any person to engage in the business of buying and selling strawberry plants without first having secured a nursery dealer's certificate from the Tennessee Department of Agriculture. Such certificate shall be issued on application when applicant has affirmed that all nursery stock handled, including strawberry plants, will have been secured from a source holding a valid certificate issued by the proper official of this State or other state or states, and when such applicant has furnished to the Director of Entomology and Plant Pathology a list of such certified sources from which he proposes to secure stock, provided that the sources of supply are otherwise acceptable under these regulations. It shall be the responsibility of the dealer holding a certificate under these regulations to maintain such records as are necessary to demonstrate that stock sold, displayed for sale, held, stored, or transplanted was, in fact, secured from such stipulated certified sources. Stock being moved by means other than by common carrier and

not packaged shall be accompanied by an itemized sales invoice showing the source of acquisition.

- (b) — The provisions of this section shall not be construed to prohibit the occasional purchase, sale, or exchange (for purposes of completing an order, meeting a shipping date, and the like) of relatively small numbers of strawberry plants between one or more regularly certified strawberry plant growers or producers, provided that such transactions are incidental to the person's business of producing and selling certified strawberry plants and are not a regular or substantial part of the total business, and provided that the records stipulated above are satisfactorily maintained.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.05 SEIZURE.** Strawberry plants found to be infested or infected by an insect pest and/or plant disease while being offered for sale, held or stored for subsequent sale, traded, delivered, shipped or offered for shipment in, into or from this State, or being moved in violation of any section of the Tennessee Plant Pest Act, (Sections 43-515 through 43-526, as amended, of the Tennessee Code Annotated) or in violation of any of the regulations promulgated there under shall be seized by the Director of Entomology and Plant Pathology. The owner of such seized stock will be given the option of having the stock treated at his expense, if a treatment can be given that, in the judgment of the Director of Entomology and Plant Pathology, will be effective in removing any hazard of spread of insect pests and/or plant diseases, or having the stock returned to him, at his expense, if same shall have originated outside of this State, or destroyed. It shall be illegal for the owner, consignor, consignee, carrier or other person to move or deliver such seized stock until it is released by the Director of Entomology and Plant Pathology or his representative.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.06 OUT-OF-STATE PLANTS.** No person shall sell, offer for sale, or distribute within this State any strawberry plants originating in source plantings in other states, territories, or countries unless such plants shall be certified by a legally constituted agency of such other state, territory, or country as meeting certification standards equally as rigid as those required for certification and sale or distribution of plants in this state as set forth in Section I and 11 above and such certification of states, territories or countries of origin must be on the basis of at least two field inspections timed comparably to those required in Section 1.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.07 USE OF CERTIFICATES.** All strawberry plants shipped, sold or delivered or transported for sale or delivery in this State shall have affixed to each package a tag, which shall bear a copy of the valid certificate covering such plants. These tags shall expire on the same date as the certificates under which they are printed unless such certificates shall be revoked or suspended prior to that date. Use of tags beyond their expiration date or on shipments or sales of plants not covered by the certificate shall be a violation of these regulations.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.08 LABELING & ADVERTISING TO AGREE WITH CERTIFICATION.** No person shall sell, offer for sale, or distribute within this State any strawberry plants represented by means of labeling or advertising to be "disease free", or "virus free", or "produced from 'virus free' stock", or "registered" or "foundation" stock unless such stock is so classified by a legally constituted agency designated for such purpose.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.09 REVOCATION.**

- (1) — All certificates issued under these regulations may be immediately suspended or revoked when:
  - (a) — Plants or stock covered by the certificate are determined to be in non-certifiable status in accordance with the provisions of these regulations.
  - (b) — Certificates are misused, transferred, sold, loaned, applied to stock not covered by the certificate, or otherwise handled or used in violation of the requirements and intent of the applicable regulations.
  - (c) — Any of the provisions of the Tennessee Plant Pest Act of 1955 (Sec. 43-515 through 43-526, as amended, of the Tennessee Code Annotated) or of the regulations promulgated there under are violated by the holder of said certificates.
- (2) — In case of revocation or suspension of certificates, all such certificates together with certificate tags printed or issued thereunder, shall be immediately surrendered to the Tennessee Department of Agriculture on demand of the Director of Entomology and Plant Pathology or his representative and it shall be a misdemeanor for the holder of such certificates or certificate tags to refuse to make such surrender.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.10 PENALTIES.** Any person who shall violate any provision or requirement of these regulations or who shall interfere with or obstruct the Director of Entomology and Plant Pathology or any of his duly designated employees or agents in the performance of his duties under these regulations shall incur the penalties provided in Section 43-526 of the Tennessee Code Annotated.

*Authority: T.C.A. §43-518. Administrative History: Original Rule certified June 5, 1974.*

**0080-6-2-.11 PREVIOUS REGULATIONS.** These Regulations supersede all previous regulations on this subject and any prior regulations on this subject are hereby revoked

*~~Authority: T.C. A. §43-518. Administrative History: Original Rule certified June 5, 1974.~~*

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF AGRICULTURE  
DIVISION OF PLANT INDUSTRIES**

**CHAPTER 0080-6-18  
VEGETABLE PLANT CERTIFICATION**

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**0080-6-18-.01 DEFINITIONS**

- (1) — ~~“DEPARTMENT” means Tennessee Department of Agriculture.~~
- (2) — ~~“ACT” means the “Tennessee Plant Pest Act”, T.C.A. §43-6-101 and 43-6-112.~~
- (3) — ~~“DIRECTOR” means the Director of the Plant Industries Division, Tennessee Department of Agriculture or his duly authorized representative.~~
- (4) — ~~“CONTAINER” means a crate, bundle, flat or grouping of uniform plants.~~
- (5) — ~~“VEGETABLE PLANTS” means all species of tomato, pepper, cabbage, broccoli and cauliflower.~~

*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.*

**0080-6-18-.02 CERTIFICATION**

- (1) — ~~No vegetable plants shall be sold, offered for sale, held for sale, or transported into or within the State of Tennessee unless they have been certified as being essentially free of insect pests and plant diseases and true to name by the Director or certified by a legally constituted agency designated for such purpose in other states, territories or countries as meeting certification standards substantially the same as those required for certification in Tennessee.~~
- (2) — ~~The requirements for certification are as follows:~~

- (a) — Application for certification shall be made to the Director on or before February 1 of each calendar year.
- (b) — Fields, greenhouses, and other sites offered for certification must be well cultivated and be maintained essentially free of weeds and grasses. Planting sites not so maintained will not be certified.
- (c) — Fields, greenhouses and sites used for the production of certified vegetable plants must not have been planted during the previous five (5) years to soybeans not to other crops susceptible to root knot nematode within the previous three (3) years unless the site has been tested and approved by the Director as being free from such nematodes. Sites may be sampled and assayed each year to confirm the absence of soybean cyst nematode (*Heterodera Glycines*).
- (d) — Fields, greenhouses, and other sites used for the production of certified vegetable plants must not have been planted to these same crops within the previous two (2) years. Successive plantings of certified crops shall be allowed until such sites are rejected by the Director because of disease or nematodes.
- (e) — Seeds used to produce certified vegetable plants are required to comply with all requirements of the Tennessee Seed Law, T.C.A. §43-10-101 et seq. and the regulations promulgated pursuant thereto.
- (f) — Vegetable plants that are grown in fields, greenhouses or other sites shall be spaced in such a way that different varieties can be identified and properly labeled.

*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.*

#### **0080-6-18-.03 REPEALED**

*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982.*

#### **0080-6-18-.04 USE OF CERTIFICATES**

All vegetable plants shipped, sold, delivered or transported for sale or delivery in this State shall have affixed to each container a tag which shall bear a copy of the valid certificate covering such plants. The certificate and all tags shall expire on December 31 of each year unless they have been suspended or revoked prior to that date. Use of tags beyond their expiration date or on shipments or sales of plants not covered by the certificate shall be a violation of these regulations.

*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed August 12, 1980; effective October 6, 1980. Repeal filed September 22, 1982; effective October 22, 1982. New rule filed November 27, 1985; effective December 27, 1985.*

#### **0080-6-18-.05 REVOCATION OF CERTIFICATION**

- (1) — All certificates issued pursuant to this chapter may be suspended or revoked if:
  - (a) — Vegetable plants covered by the certificate are determined to be in a condition that is in violation of the requirements for certification in rule 0080-6-18-.02 (2) or the Act.
  - (b) — Certificates are misused, transferred, sold, applied to plants not covered by the certificate, or otherwise handled or used in violation of this Chapter.
- (2) — Upon the revocation or suspension of any certificates, all such certificates together with any certification tags printed or issued there under shall be immediately surrendered to the department on demand of the Director.

*Authority: T.C.A. §43-6-104. Administrative History: Original rule filed November 27, 1985; effective December 27, 1985.*