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# Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Department of Agriculture
<b>Division:</b>	Regulatory Services
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Liz Sneed
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**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	Tennessee Department of Agriculture		
Address 2:	Ellington Agricultural Center – Ed Jones Auditorium		
City:	416 Hogan Road		
Zip:	37220		
Hearing Date :	October 29, 2013		
Hearing Time:	1:00 p.m.	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST

**Additional Hearing Information:**

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**Revision Type (check all that apply):**

- Amendment
- New
- Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0080-06-16	Regulations Governing Use of Pesticides
Rule Number	Rule Title
0080-06-16-.02	Definitions
0080-06-16-.03	Certification Requirements
0080-06-16-.04	Recertification Requirements

0080-06-16-.05	Record Keeping
0080-06-16-.07	Use of Restricted Use Pesticides
0080-06-16-.09	Civil Fine Schedule
0080-06-16-.10	Pesticide Management and Disposal
<b>Chapter Number</b>	<b>Chapter Title</b>
0080-06-27	Worker Protection
<b>Rule Number</b>	<b>Rule Title</b>
0080-06-27-.01	Definitions
0080-06-27-.02	Worker Protection Standard
0080-06-27-.03	WPS Train the Trainer Requirements
0080-06-27-.04	Notice to Farm Labor Contractors
0080-06-27-.05	USDA Pesticide Recordkeeping

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 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. Commercial applicators must be certified in the category (ies) 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 operators place of business and open to anyone to attend or an outside presenter conducts training 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, other than those individuals who engage in the pest control business, without obtaining any special certification or licensing.
- (8) In-House Training - means training that is covered and/or presented within the employer's place of business and attendance is limited to those employed by that specified company only. In-house training includes, but not limited to internet training, computer-based CD-ROM or DVD training.
- (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, buy or sell 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 applicable fees associated 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 certified in the certification category of Pesticide Dealer and sells wholesale or retail 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 and when needed, 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 triplicate form signed by the extension agent verifying the completion of training to the Tennessee Department of Agriculture with appropriate fee(s) as outlined in TCA 43-1-703.
  - (b) Be certified to use restricted use pesticides in any other state having comparable certification requirements. Individuals who reside out of state and hold a current certification must apply for a reciprocal Private Applicator card with the Tennessee Department of Agriculture.
  - (c) Private applicator certification expires on October 21<sup>st</sup> of the 3rd year ending the certification period.
  - (d) All individuals must be 16 years of age, 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, 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 fee(s) as outlined in TCA 43-1-703.
  - (c) Answer correctly 70 percent of the questions in the category of service for which an applicant desires to be certified offered by the Tennessee Department of Agriculture.
  - (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 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 ending 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. Section 62-21-101 et seq.
- (4) Categories In Which 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, 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.
  - (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.
    - 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 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)
    - 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 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. Including the control of plants, whether wood or herbaceous, to industrial sites and rights-of-way such as but not limited to highways, transmission lines, drainage ditches, etc.
  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.
- (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.

(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 and which 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. 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: individuals who demonstrate to the public the proper use and techniques of application of general or restricted use pesticides or supervise such demonstration, and persons conducting field research with pesticides, and 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 (C01) through (C07) above 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 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 for a fee.
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 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) 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, to use, apply, supervise, sell or buy restricted use pesticides, one must be recertified.
- (2) 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. Private Applicator certification shall expire on October 21<sup>st</sup> every third (3<sup>rd</sup>) year.
  - (b) Commercial Pesticide Applicator Certification Recertification Requirements
    1. All commercial pesticide applicators shall obtain the required continuing education credits (CEUs) in the category of certification or re-test in the same category to maintain certification.
    2. Individuals becoming certified on or after July 1<sup>st</sup> of the third (3<sup>rd</sup>) year of the certification period will be rolled over to the next 3 year recertification period.
    3. Each certification category shall require the following continuing education credits (CEUs):
      - (i) Thirty (30) CEUs for certification category: C07 – Industrial, Institutional, Structural and Health Related Pest Control.
      - (ii) Eighteen (18) CEUs 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).
      - (iii) Twelve (12) CEUs for certification categories: C02 – Forest Pest Control, C04 Seed Treatment, and C05 Aquatic Pest Control.
      - (iv) Nine (9) CEUs for certification categories: C11 Wood Preservatives, C13 Antifouling Marine Paint, C14 Microbials, and C16 Sewer Line Treatment.
    4. Continuing Education Units shall be prorated for those becoming certified during the recertification period.
    5. Continuing Education Units shall only be awarded for electronic media used in conjunction with a presentation as part of in-house training.
    6. Applications submitted by industry for training are required to be in the TDA 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).

7. 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 facilitators may not be approved for future training.
8. The sponsor shall permit representatives from TDA and/or UT PSEP employees to attend training sessions without being assessed registration fees.
9. One (1) continuing education unit shall be warranted per hour for certification related topics.
10. In-house points will be limited to 50% of your total CEU requirement. Individuals may accrue half of their CEUs internally and the remaining half externally or accrue all of their CEUs by attending external meetings.
11. No more than 75% of your required continuing education units shall be accrued at any one external meeting.
12. 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.
13. Applicators shall notify TDA in writing if there is a change in name or address.
14. Commercial Pesticide Applicator recertification shall expire every third (3<sup>rd</sup>) year on December 31<sup>st</sup>.

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

Rule 0080-06-16-.05 Records is amended by deleting the rule in its entirety.

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 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) RUP 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 and/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 and/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, 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

0080-6-16-.10 Pesticide Management And Disposal

- (1) Federal Pesticide Management and Disposal Rule, Scope and Definitions, 40 C.F.R. §§165.1-3, Adopted by Reference. The Department of Agriculture adopts herein by reference the current versions of 40 C.F.R. §§165.1-3. A copy of the C.F.R. can be accessed online at <http://www.tn.gov/agriculture/>.
- (2) Federal Pesticide Management and Disposal Rule, Standards for Pesticide Containment Structures, 40 C.F.R., Part 165, Subpart E, Adopted by Reference. The Department of Agriculture adopts herein by reference the current version of 40C.F.R. Part 165, Subpart E, as the State standards for pesticide containment structures. A copy of the C.F.R. can be accessed online at <http://www.tn.gov/agriculture/>.

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

Chapter 0080-06-27  
Worker Protection

New

0080-6-27.-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.

0080-6-27.-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 Standards. Copies of this material may be obtained from the U.S. Government Printing Office, Washington D.C. 20402 or from the Internet at <http://www.epa.gov/pesticides/safety/>.

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

0080-6-27.-03 WPS Train the Trainer Requirements

- (1) Any person applying to become qualified as a WPS trainer shall complete the Department WPS Train the Trainer program established in subsection (3).
 

Persons currently certified as an private applicator of general or restricted use pesticides or certified as a commercial applicator in categories 1, 3 or 10, are exempt from the pesticide safety trainer requirements and may provide WPS training required in CFR §170.130(d)(1) and §170.230(c)(1).
- (2) A Train the Trainer applicant shall submit a signed affidavit to the department verifying that workers and handlers shall be trained according to the requirements of CFR §170.130(d)(1) and §170.230(c)(1). The affidavit 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 CFR §170.130(d)(1), §170,130(4), §170.230(c)(1) and §170.230(4).
  - (b) failing to maintain the training information prescribed in §0080-6-17.-04(1)(a-d).

- (c) acting as a trainer without authorization as prescribed in subsection (3).
- (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.

0080-6-27.-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 CFR 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 CFR 170.120(a), (b) and (c), the farm labor contractor shall:
    - 1. post or provide worker(s) in writing, with the information in 40 CFR 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 CFR 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 CFR 170.120(a), (b) and (c).

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

0080-6-27.-05 USDA Pesticide Recordkeeping

Pesticide Recordkeeping Requirements for Certified Private Applicators of Federally Restricted Use Pesticides. C.F.R Title 7- Agriculture, Subtitle B – Regulations Of The Department Of Agriculture, Subchapter E – Commodity Laboratory Testing Programs and Part 110 – Recordkeeping on Restricted Use Pesticides By Certified Applicators; Surveys and Reports. Adopted by Reference. The Department of Agriculture adopts herein by reference the current version as the state standards for Pesticide Recordkeeping for private applicators using restricted use pesticides. A copy of the C.F.R can be access online at [www.ecfr.gov](http://www.ecfr.gov).

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: August 20, 2013

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

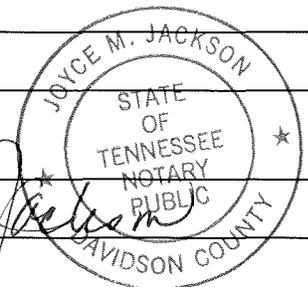
Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: August 20, 2013

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

My commission expires on: 09/08/2013



Department of State Use Only

Filed with the Department of State on: 8/20/13



Tre Hargett  
Secretary of State

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