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**For Department of State Use Only**

Sequence Number: 04-09-20  
 Rule ID(s): 9330  
 File Date: 4/7/2020  
 Last Effective Day: 10/4/2020

## Emergency Rule Filing Form

*Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.*

<b>Agency/Board/Commission:</b>	Department of Agriculture
<b>Division:</b>	Consumer and Industry Services
<b>Contact Person:</b>	David Waddell
<b>Address:</b>	442 Hogan Road, Nashville, TN
<b>Zip:</b>	37220
<b>Phone:</b>	615-837-5331
<b>Email:</b>	david.waddell@tn.gov

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

- Amendment  
 New  
 Repeal

**Statement of Necessity:**

These rules are necessary for continuity of pesticide services available to the public and control of COVID-19 during state of emergency declared by governor.

Commercial applicators of pesticides and private applicators are required to complete a certain amount of training before renewing their certifications on June 30. This training and certification are important for the public welfare by having trained and certified individuals applying chemicals in homes and businesses. The primary source for the training is UT, which closed upon the issuance of the emergency declaration. Other training from the department or private trainers is also not available during this time. Without this training or an opportunity to take examinations they will not be able to renew their certifications by June 30. These rules extend the certification period to September 30, or 30 days from the end of the emergency declaration depending on which comes first. The rule also deems General Pest and Rodent Control licensees as licensed under Category 14 for pesticide applications made for control of COVID-19.

**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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0080-09-02	Restricted Use Pesticides
Rule Number	Rule Title
0080-09-02-.03	Certification Requirements
0080-09-02-.05	Certification Categories
0080-09-02-.06	Recertification Requirements

Amended Rules

0080-09-02-.03 Certification Requirements

Amend paragraph (2) of Rule 0080-09-02-.03, Certification Requirements, is amended by deleting the word "June" and substituting the word "September" so that the paragraph shall read as follows:

- (2) All certifications issued under this rule shall expire on September 30 of the third year of the certification period in which the certification was issued.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

0080-09-02-.05 Certification Categories

Amend paragraph (14) of Rule 0080-09-02-.05, Certification Categories, is amended by adding the new subparagraph as follows:

- (c) From the effective date of this rule until September 30, 2020, or the end of the state of emergency declared by the governor in response to the COVID-19 pandemic, whichever comes first, commercial applicators licensed under Rule 0080-09-04-.04(7) General Pest and Rodent Control (GRC) are considered licensed and certified in this category for the purpose of COVID-19 control.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

0080-09-02-.06 Recertification Requirements

Amend paragraph (1) of Rule 0080-09-02-.06, Recertification Requirements, is amended by deleting the word "June" and substituting instead the word "September" so that the paragraph shall read as follows:

- (1) Recertification of private applicator or commercial applicator shall expire of September 30 of every third year.

Authority: T.C.A §§ 4-3-203, 43-8-106, and 62-21-118

\* 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 an emergency rule(s), lawfully promulgated and adopted.

Date: March 28, 2020

Signature: 

Name of Officer: Charles Hatcher, D.V.M.

Title of Officer: Commissioner

Subscribed and sworn to before me on: \_\_\_\_\_

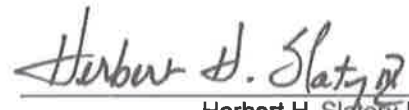
Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

Agency/Board/Commission: Department of Agriculture: Consumer and Industry Services

Rule Chapter Number(s): 0080-09-02

All emergency 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.

  
Herbert H. Slatery III  
Attorney General and Reporter  
4/2/2020 Date

**Department of State Use Only**

Filed with the Department of State on: 4/7/2020

Effective for: 180 \*days

Effective through: 10/4/2020

\* Emergency rule(s) may be effective for up to 180 days from the date of filing.

  
Tre Hargett  
Secretary of State

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PUBLICATIONS

### **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://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

There is no impact on local government.

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

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

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

All pest controls licenses and certifications expire on June 30. They are required to accumulate continuing education credits throughout the license period in order to renew their licenses. All the sources of training have closed because of the Covid-19 epidemic and it may not be possible to get enough credits before June 30. These rules move the expiration dates to September 30 for this year. In addition, commercial applicators certified in Category 7 are deemed certified in Category 14 for the purpose of authorizing more companies to be able to control microbial pests such as Covid-19.

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

The Tennessee Insecticide, Fungicide, and Rodenticide Act T.C.A. §§ 43-8-101 et seq. mandates the promulgation of license and certification expiration dates. T.C.A. § 4-3-203(10)(B) gives the commissioner authority to issue emergency rules in conditions of danger to public welfare.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

All holders of pesticide licenses and certifications are affected by this rule.

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

There are no relevant cases or opinions to this rule.

- (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;

The fiscal impact will be minimal.

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

David Waddell

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

David Waddell

- (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

442 Hogan Road, Nashville, TN 37220; 615-837-5331; David.waddell@tn.gov

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