

Department of State
Division of Publications
 312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
 Nashville, TN 37243
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 Email: publications.information@tn.gov

For Department of State Use Only
 Sequence Number: 05-08-20
 Rule ID(s): 9353
 File Date: 5/15/2020
 Last Effective Day: 11/11/2020

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.

Agency/Board/Commission:	Department of Agriculture
Division:	Consumer & Industry Services
Contact Person:	David Waddell
Address:	Post Office Box 40627, Nashville, Tennessee
Zip:	37204
Phone:	(615) 837-5331
Email:	david.waddell@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

During the period of emergency declared by the governor in response to Covid-19 pandemic there are not enough testing opportunities for new entrants into the pest control industry to provide enough applicators to perform essential services

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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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-.14	Emergency Provisions

New

Chapter 0080-09-02
 Restricted Use Pesticides

0080-09-02-.14 Emergency Provisions

- (1) In response to the unavailability of testing opportunities for new entrants into the pest control industry because of the COVID-19 pandemic, a temporary certification process is necessary to provide enough commercial applicators to perform essential services.
- (2) Temporary certification is available in lieu of testing provided that:
 - (a) The commercial applicator is registered with the department under the employer's charter;
 - (b) The charter holder can document that the commercial applicator has received 40 hours of field

training; and

(c) The charter holder can document that the commercial applicator has received 16 hours of classroom training.

(3) All temporary certifications issued under this rule shall expire on October 31, 2020.

Authority: T.C.A. §§ 4-5-208, 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: 04/28/2020

Signature: 

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

Title of Officer: Commissioner

Subscribed and sworn to before me on: _____

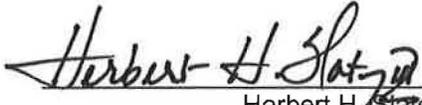
Notary Public Signature: _____

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. Slatyer III
 Attorney General and Reporter
5/13/2020 Date

Department of State Use Only

Filed with the Department of State on: 5/15/2020

Effective for: 180 *days

Effective through: 11/11/2020

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

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 PUBLICATIONS


 Tre Hargett
 Secretary of State

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)

No impact is expected on local governments.

Additional Information Required by Joint Government Operations Committee

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

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

Because of the Covid-19 pandemic, all the available testing centers at which new pest control commercial applicators take qualifying examinations are closed. Pest control companies are not able to hire new employees during this period of high demand for their services. This rule waives the testing requirement for commercial applicators if the prospective employee is trained and registered with the department. The temporary certifications will expire on October 31, 2020.

- (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 Application of Pesticides Act T.C.A. § 62-21-101 et seq. requires pest control applicators to be examined and licensed or certified.

- (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;

The pest control industry supports the adoption of this emergency 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 opinions or cases relevant 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;

This rule will have minimal fiscal impact.

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

David Waddell, Director of Law and Policy, Tennessee Department of Agriculture

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

David Waddell, Director of Law and Policy, Tennessee Department of Agriculture;

- (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

436 Hogan Road, Nashville, Tennessee 37220; (615) 837-5331; david.waddell@tn.gov

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

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Redline Version

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Division:	Consumer & Industry Services
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Chapter Number	Chapter Title
0080-09-02	Restricted Use Pesticides
Rule Number	Rule Title
0080-09-02-.14	Emergency Provisions

New

Chapter 0080-09-04
Pest Control Operators

0080-09-02-.14 Emergency Provisions

(1) In response to the unavailability of testing opportunities for new entrants into the pest control industry because of the COVID-19 pandemic, a temporary certification process is necessary to provide enough commercial applicators to perform essential services.

(2) Temporary certification is available in lieu of testing provided that:

(a) The commercial applicator is registered with the department under the employer's charter;

(b) The charter holder can document that the commercial applicator has received 40 hours of field

training; and

(c) The charter holder can document that the commercial applicator has received 16 hours of classroom training.

(3) All temporary certifications issued under this rule shall expire on October 31, 2020.

Authority: T.C.A. §§ 4-5-208, 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: 04/28/2020

Signature: 

Name of Officer: Charlie 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): 0080-09-04

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

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective for: _____ **days*

Effective through: _____

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Tre Hargett
Secretary of State

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- (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 Application of Pesticides Act T.C.A. § 62-21-101 et seq. requires pest control applicators to be examined and licensed or certified.

- (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;

The pest control industry supports the adoption of this emergency 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 opinions or cases relevant 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;

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