

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

**CHAPTER 0080-6-22  
BOLL WEEVIL ERADICATION**

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**0080-6-22-.01 PURPOSE.**

- (1) The purpose of this Chapter as set out in *T.C.A. §43-6-401* is to secure the suppression or eradication of the boll weevil in cotton. To meet these ends this Chapter imposes quarantines and certifies a cotton grower's organization to cooperate with other state and federal agencies.

**Authority:** *T.C.A. §§43-6-406 and 43-6-409. Administrative History:* Original rule filed January 23, 1995; effective May 31, 1995.

**0080-6-22-.02 DEFINITIONS.** For the purpose of this Chapter, the following definitions shall apply.

- (1) APHIS - United States Department of Agriculture, Animal and Plant Health Inspection Service.
- (2) Boll Weevil - *Anthonomus grandis* Boheman in any stage of development.
- (3) Certificate - A document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with boll weevils. Such articles may be moved to any destination.
- (4) Certified Cotton Growers' Organization - The Tennessee Boll Weevil Eradication Foundation, Inc., as certified by the Commissioner for the purpose of entering into agreements with the state of Tennessee, other states, the federal government and other parties as may be necessary to carry out the boll weevil eradication program in the state of Tennessee.
- (5) Commissioner - The Commissioner of Agriculture or his designated representative.
- (6) Compliance Agreement - A written agreement between the Department of Agriculture and any person engaged in growing, dealing in, or moving regulated articles wherein the latter agrees to comply with specified provisions to prevent dissemination of the boll weevil.
- (7) Department - The Tennessee Department of Agriculture.
- (8) Elimination Area - That portion of Tennessee where eradication of the boll weevil is undertaken as an objective.
- (9) FSA - United States Department of Agriculture, Farm Service Agency.
- (10) Foundation - The Tennessee Boll Weevil Eradication Foundation, Inc.

(Rule 0080-6-22-.02, continued)

- (11) Gin Trash - All material produced during the cleaning and ginning of cotton seed, bollies or snapped cotton except lint, cottonseed or gin waste.
- (12) Grower - Any person who is engaged in and has an economic risk in the business of producing or causing to be produced cotton for market.
- (13) Infested - Actually infested with a boll weevil or so exposed to infestation that it would be reasonable to believe that an infestation exists.
- (14) Non-Commercial Cotton - Cotton intended for purposes other than processing.
- (15) Permit - A document issued or authorized by the Commissioner to provide for the movement of a regulated article to a restricted destination for limited handling, utilization or processing.
- (16) Person - Any individual, corporation, company, society, association or other business entity.
- (17) Regulated Area - Any county, parish, township, city or other civil division or part thereof in any state or territory listed in this Chapter as being placed under quarantine, and such other areas as may become infested or deemed to present a hazard of spread of the boll weevil.
- (18) Seed Cotton - Cotton as it comes from the field prior to ginning.
- (19) Used Cotton Equipment - Any cotton equipment previously used to harvest, strip, transport or process cotton.
- (20) Waiver - A written authorization which exempts an individual from compliance with one or more specific requirements of this Chapter.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999. Amendment filed May 16, 2001; effective September 28, 2001.

#### **0080-6-22-.03 QUARANTINE IMPOSED.**

- (1) Based upon the purpose set out in 0080-6-22-.01, it is hereby ordered, that a quarantine be imposed upon the articles, pests and areas set out in this Chapter, subject to the conditions imposed by this Chapter.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995.

#### **0080-6-22-.04 REGULATED AREAS.** The following areas are hereby regulated:

- (1) The entire State of Tennessee.
- (2) All States and portions thereof infested with the boll weevil.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995.

#### **0080-6-22-.05 ELIMINATION AREAS.**

- (1) The elimination areas in Tennessee are as follows:

(Rule 0080-6-22-.05, continued)

- (a) Middle Tennessee Region: All counties which lie east of the Tennessee River in what are generally known as Middle and East Tennessee, except the portion of Hardin County that lies east of the Tennessee River.
- (b) West Tennessee Region 1:
  - 1. Fayette, Hardeman, Hardin, McNairy, Shelby and Tipton counties in their entirety.
  - 2. The portion of Haywood County that lies south of the Hatchie River.
  - 3. The portion of Chester County that lies south of Tennessee Highway 100.
- (c) West Tennessee Region 2:
  - 1. Benton, Carroll, Crockett, Decatur, Dyer, Gibson, Henderson, Lauderdale and Madison Counties in their entirety.
  - 2. The portion of Haywood County that lies north of the Hatchie River.
  - 3. The portion of Chester County that lies north of Tennessee Highway 100.
- (d) West Tennessee Region 3: Henry, Lake, Obion and Weakley Counties in their entirety.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999. Amendment filed May 16, 2001; effective September 28, 2001.

**0080-6-22-.06 REGULATED ARTICLES.** The following articles shall be regulated by this Chapter:

- (1) The boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.
- (2) Gin trash.
- (3) Seed cotton.
- (4) Cotton plants, bolls.
- (5) Used cotton equipment.
- (6) Any other products, articles, means of conveyance, or any other item whatsoever which is determined by the Commissioner to present a hazard in the spread of the boll weevil, and the person in possession of such item has been so notified.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999.

**0080-6-22-.07 CONDITIONS GOVERNING MOVEMENT OF REGULATED ARTICLES.**

- (1) Certificate or Permit Required.
  - (a) Regulated articles moving from a regulated area into or through the elimination area of the State of Tennessee shall be accompanied by a certificate or permit issued by an authorized regulatory official in the state where such articles originated.

(Rule 0080-6-22-.07, continued)

- (b) Regulated articles originating outside a regulated area may be moved into or through the elimination area of the State of Tennessee without a certificate or permit, if accompanied by documentation of the point of origin and if, to the satisfaction of the Commissioner, such articles have been adequately protected from boll weevil infestation during movement through all regulated areas.
- (2) Issuance of Certificates and Permits.
  - (a) Certificates for movement of regulated articles may be issued by the Commissioner when such articles:
    - 1. Originated in non-infested premises in the State of Tennessee and have not been otherwise exposed to infestation.
    - 2. Have been treated to destroy infestation in accordance with approved procedures.
    - 3. Have been grown, manufactured, stored, or handled in such a manner that, in the judgment of the Commissioner, they would not transmit infestation, and
    - 4. Have been found, upon examination by the Commissioner, to be free of any infestation.
  - (b) Permits may be issued by the Commissioner to allow the movement of non-certified regulated articles to locations outside regulated areas for particular handling, utilization, processing, or treatment in accordance with approved procedures, when the Commissioner has determined that such movement will not result in spreading of the boll weevil.
- (3) Certificates and permits shall be handled as follows:
  - (a) Certificates and permits, when required, shall be securely attached to the outside container in which regulated articles are moved, provided that when the regulated articles are adequately described on the shipping document, the certificate or permit may be attached to the shipping document.
  - (b) Copies of all certificates and permits shall be furnished by the carrier to the consignee at the final destination.
- (4) Any certificate or permit may be canceled by the Commissioner upon his determination that the holder thereof has failed to comply with any condition for the use of such permit or with any term of the compliance agreement.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999.

**0080-6-22-.08 MOVEMENT FOR SCIENTIFIC PURPOSES.**

- (1) Regulated articles may be moved for experimental or scientific purposes provided a permit issued by the Commissioner specifying guidelines by which such articles must be handled is obtained prior to movement.
- (2) Producers in designated experimental areas may be exempted from specified requirements of this Chapter, provided they abide by criteria as stipulated by the Commissioner in a compliance agreement. The experiments in these areas must contribute to the development of scientific knowledge deemed of importance to the production of cotton.

(Rule 0080-6-22-.08, continued)

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995.

#### **0080-6-22-.09 COMPLIANCE AGREEMENTS.**

- (1) As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating:
  - (a) That he will maintain such safeguards against the establishment and spread of infestation,
  - (b) Comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles, and
  - (c) The cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Commissioner.
- (2) Any compliance agreement may be canceled by an Commissioner whenever he finds, after notice to and opportunity for response by the holder, that such holder has failed to comply with any condition of the agreement. Any compliance agreement may be canceled or voided by the Commissioner when, in his opinion, it is no longer required.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999.

#### **0080-6-22-.10 TRANSPORTATION AND DISPOSAL.**

- (1) The Commissioner is authorized to stop a person and to inspect any article or means of transportation or conveyance moving into, within, or from the State of Tennessee when he has reasonable grounds or probable cause to believe that such items are infested with the boll weevil; and the Commissioner is authorized to seize, treat, destroy, or otherwise dispose of any articles found to be moving in violation of these rules

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999.

#### **0080-6-22-.11 REPORTING AND LOCATION OF COTTON ACREAGE.**

- (1) All growers in an elimination area shall complete a cotton acreage report showing planting intentions, noting the location and acreage of all cotton fields by a date recommended by the Foundation and established by the Commissioner. All growers shall complete the intended cotton acreage report at the local FSA office servicing each county in which they produce cotton. Such reports shall be filed for each year of participation in the program. Growers who fail to complete this report by the established date shall be assessed a \$5.00 per acre penalty.
- (2) All growers in an elimination area shall complete a cotton acreage report showing actual FSA certified acreage noting the location of all cotton fields by a date recommended by the Foundation and established by the Commissioner. All growers shall complete the certified cotton acreage report at the local FSA office servicing each county in which they produce cotton. Such reports shall be filed for each year of participation in the program. Growers who fail to complete and file this report by the established date shall be assessed a \$5.00 per acre penalty.
- (3) Notification of the dates established for reporting of planting intentions and actual FSA certified cotton acreage shall be given to growers via correspondence from the Department prior to April 15 each year.

(Rule 0080-6-22-.11, continued)

- (4) Non-commercial cotton shall not be planted in an elimination area without a waiver issued in writing by the Commissioner. Application for a waiver shall be submitted in writing and the Commissioner's decision to grant or deny the waiver shall be based on the following:
  - (a) Location of growing area,
  - (b) Pest conditions in the growing area,
  - (c) Size of the growing area,
  - (d) Accessibility of the growing area,
  - (e) Any stipulation set forth in a compliance agreement between the applicant and the Commission that are necessary for the effectuation of the program.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999. Amendment filed May 16, 2001; effective September 28, 2001.

**0080-6-22-.12 PROGRAM PARTICIPATION, FEE PAYMENT, PENALTIES, AND CREDITS.**

- (1) Upon passage of a grower referendum conducted under the provisions of T.C.A. 43-6-423, all cotton growers in an elimination area as set out in 0080-6-22-.05 shall be required to participate in the boll weevil eradication program and pay an assessment as recommended by the Foundation and established by the Commissioner.
- (2) Assessment rates recommended by the Foundation and established by the Commissioner shall not exceed the maximum rate authorized by the most recent referendum. The assessment rate and payment date is dependent upon the availability of allocated funding. Therefore, notification will be given to growers via correspondence from the Department at the earliest practical date, after the amount of allocated funding is known. All payments made by the grower shall be submitted to the local FSA and made payable to the Tennessee Boll Weevil Eradication Foundation, Inc.
- (3) Any grower in an elimination area whose FSA measured acreage exceeds the acreage reported by the grower on the intended or certified cotton acreage reports by more than 10 percent shall be assessed a penalty fee of \$5.00 per acre on that acreage in excess of the reported acreage. Any grower whose FSA measured acreage exceeds the reported planting intentions by more than 10 percent due to emergency or hardship may apply for a waiver. Any grower applying for a waiver shall make application in writing to the Commissioner stating the conditions under which he requests the waiver. The Commissioner will make all decision concerning a waiver of all or part of this requirement. Notification will be given to the grower within two weeks after receipt of such application. The Commissioner shall base his decision upon the following:
  - (a) Meteorological conditions,
  - (b) Economic hardship,
  - (c) Any other uncontrollable destructive forces.
- (4) Failure to pay all assessments on or before the deadlines established by the Commissioner for the current growing season shall result in a late payment penalty of \$5.00 per acre. Failure by a grower to pay all program costs by the deadlines established by the Commissioner is a violation of this rule.
- (5) The Commissioner shall have a lien for the payment of assessments which shall be of equal dignity with liens for taxes in favor of the State.

(Rule 0080-6-22-.12, continued)

- (6) At such times as are profitable to the boll weevil eradication program, the Foundation may recommend credits for early cotton stalk destruction. Such credits, if approved by the Commissioner, shall be applied to the subsequent year's assessment. In order to claim such credits:
  - (a) The grower must complete a stalk destruction verification form and submit a copy to the local FSA office in the county where the cotton was produced.
  - (b) Stalk destruction must be verified by an authorized representative of the Southeastern Boll Weevil Eradication Foundation, Inc.
  - (c) The stalk destruction verification form must be received at the Department no later than December 1 immediately following the early stalk destruction.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999. Amendment filed May 16, 2001; effective September 28, 2001.

#### **0080-6-22-.13 PURCHASE OF COTTON FOR EFFECTUATION OF PROGRAM OBJECTIVES**

- (1) The Commissioner may purchase growing cotton when he deems it in the best interest of the program. Purchase price shall be based on the FSA farm established yield for the current year.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed September 17, 1998; effective January 28, 1999.

#### **0080-6-22-.14 COTTON STALK DESTRUCTION**

- (1) All growers in the elimination areas are required to destroy cotton stalks in every field location planted to cotton on or before December 31 of each year. Such cotton stalk destruction shall consist of shredding or disking to the extent of eliminating standing cotton stalks.
- (2) In fields with cotton stalks left standing after December 31, the Commissioner shall have authority to hire the destruction of standing stalks and assess the grower for actual costs of such destruction. Failure to pay an assessment for crop destruction shall result in a late payment penalty of \$5.00 per acre.
- (3) Any grower who cannot destroy cotton stalks before December 31 due to emergency or hardship conditions may apply for a waiver. Any grower seeking a waiver shall make application in writing to the Commissioner stating the conditions under which he requests such a waiver. The decision of whether or not to waive this requirement shall be made by the Commissioner and notification given to the grower within two weeks after receipt of such application. The Commissioner shall base his decision on the following:
  - (a) Meteorological conditions,
  - (b) Economic conditions,
  - (c) Any other uncontrollable destructive forces.

**Authority:** T.C.A. §§43-6-406 and 43-6-409. **Administrative History:** Original rule filed January 23, 1995; effective May 31, 1995. Amendment filed May 16, 2001; effective September 28, 2001.