

RULEMAKING HEARING RULES  
OF  
TENNESSEE DEPARTMENT OF AGRICULTURE  
ADMINISTRATION

CHAPTER 0080-1-3  
CIVIL PENALTIES

NEW RULES

TABLE OF CONTENTS

0080-1-3-.01 CIVIL PENALTIES

(1) The Department, any Board or Commission attached to the Department may, in a lawful proceeding respecting licensing, as defined in the Administrative Procedures Act, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty of not more than five hundred dollars (\$500) for each violation of statute, rule or order enforceable by the Department, Board, or Commission in accordance with the following schedule:

Agriculture and Horticulture - Title 43

Agricultural Seeds - (Chapter 10)

Seed Law (Part 1)

<u>Violations</u>	<u>Penalties</u>
43-10-104	0-500
43-10-105	0-500
43-10-106	0-500
43-10-108	0-500
43-10-109 (1)	0-500
43-10-109 (2)	0-500
43-10-109 (3)	0-500
43-10-109 (4)	0-500
43-10-109 (5)	0-500
43-10-109 (6)	0-500
43-10-109 (7)	0-500
43-10-109 (8)	0-500
43-10-109 (9)	0-500
43-10-109 (10)	0-500
43-10-109 (11)	0-500
43-10-109 (12)	0-500
43-10-111	0-500
43-10-118 (a)	0-500
43-10-118 (b)	0-500
43-10-118 (c)	0-500
43-10-118 (e)	0-500

Fertilizers and Liming Materials (Chapter 11)Commercial Fertilizers (Part 1)

<u>Violations</u>	<u>Penalties</u>
43-11-104 (a)	0-500
43-11-105 (a)	0-500
43-11-105 (b)	0-500
43-11-105 (c)	0-500
43-11-106 (a)	0-500
43-11-106 (b)	0-500
43-11-107 (a)	0-500
43-11-107 (b)	0-500
43-11-109	0-500
43-11-111	0-500
43-11-112	0-500
43-11-114	0-500
43-11-115	0-500
43-11-124	0-500

Fertilizers and Liming Materials (Chapter 11)Liming Materials (Part 2)

<u>Violations</u>	<u>Penalties</u>
43-11-203	0-500
43-11-204	0-500
43-11-205	0-500
43-11-206	0-500

Fertilizers and Liming Materials (Chapter 11)Anhydrous Ammonia (Part 3)

<u>Violations</u>	<u>Penalties</u>
43-11-302	0-500
43-11-304 (a)	0-500
43-11-304 (b)	0-500
43-11-304 (c)	0-500
43-11-304 (d)	0-500

Tobacco Sales (Chapter 19)Tobacco Inspectors - Inspections - Violations (Part 2)

<u>Violations</u>	<u>Penalties</u>
43-19-205	0-500
43-19-206	0-500
43-19-207	0-500

Inspections (Part 2) cont'd.

<u>Violations</u>	<u>Penalties</u>
43-19-209	0-500
43-19-212	0-500
43-19-213	0-500
43-19-214	0-500

Sale of Tobacco (Part 3)

<u>Violations</u>	<u>Penalties</u>
43-19-302	0-500
43-19-304	0-500

Schedule of Fees (Part 4)

<u>Violations</u>	<u>Penalties</u>
43-19-401	0-500
43-19-403	0-500

Animals and Animal Husbandry - Title 44

Prevention and Treatment of Diseases - Chapter 2

General Provisions (Part 1)

<u>Violations</u>	<u>Penalties</u>
44-2-101	0-500
44-2-102	0-500
44-2-103	0-500
44-2-104	0-500
44-2-105	0-500
44-2-106	0-500
44-2-109	0-500
44-2-110	0-500
44-2-112	0-500
44-2-113	0-500
44-2-115	0-500
44-2-117	0-500
44-2-119	0-500
44-2-122	0-500

Prevention and Treatment of Diseases - Chapter 2

Import Restrictions (Part 2)

Violations

44-2-201  
44-2-202  
44-2-203

Penalties

0-500  
0-500  
0-500

Disease Control - (Chapter 2)

Serums (Part 3)

Violations

44-2-301

Penalties

0-500

Disease Control - (Chapter 2)

Feeding Garbage to Swine (Part 4)

Violations

44-2-404  
44-2-406

Penalties

0-500  
0-500

Disease Control - (Chapter 2)

Brucellosis (Part 10)

Violations

44-2-1006  
44-2-1007  
44-2-1008  
44-2-1009  
44-2-1010  
44-2-1013

Penalties

0-500  
0-500  
0-500  
0-500  
0-500  
0-500

Disease Control - (Chapter 2)

Hog Cholera (Part 2)

Violations

44-2-1102  
44-2-1103 (a)  
44-2-1103 (b)  
44-2-1103 (c)  
44-2-1105

Penalties

0-500  
0-500  
0-500  
0-500  
0-500

Disease Control - (Chapter2)

Tuberculosis (Part 12)

ViolationsPenalties

44-2-1206	0-500
44-2-1207	0-500
44-2-1208	0-500
44-2-1216	0-500
44-2-1217	0-500

Commercial Feed Law (Chapter 6)ViolationsPenalties

44-6-104	0-500
44-6-105	0-500
44-6-106 (1)	0-500
44-6-106 (2)	0-500
44-6-106 (3)	0-500
44-6-106 (4)	0-500
44-6-106 (5)	0-500
44-6-107 (1)	0-500
44-6-107 (2)	0-500
44-6-107 (3)	0-500
44-6-107 (4)	0-500
44-6-107 (5)	0-500
44-6-108 (1)	0-500
44-6-108 (2)	0-500
44-6-108 (3)	0-500
44-6-108 (4)	0-500
44-6-108 (5)	0-500
44-6-108 (6)	0-500
44-6-109 (a)	0-500
44-6-109 (b)	0-500
44-6-109 (c)	0-500
44-6-111 (e)	0-500
44-6-112 (a)	0-500
44-6-112 (b)	0-500

Dealers and Purchasers of Poultry, Livestock and Hides (Chapter 10)General Provisions - (Part 1)ViolationsPenalties

44-10-101	0-500
44-10-103	0-500
44-10-106	0-500
44-10-108	0-500

Livestock Dealers - (Part 2)

<u>Violations</u>	<u>Penalties</u>
44-10-203	0-500
44-10-206 (1)	0-500
44-10-206 (2)	0-500
44-10-206 (3)	0-500
44-10-206 (4)	0-500
44-10-206 (5)	0-500

Livestock Sales (Chapter 11)

<u>Violations</u>	<u>Penalties</u>
44-11-102	0-500
44-11-103	0-500
44-11-105	0-500
44-11-106 (a)	0-500
44-11-107	0-500
44-11-108	0-500
44-11-109	0-500
44-11-113	0-500

Public Livestock Market Charters (Chapter 12)

<u>Violations</u>	<u>Penalties</u>
44-12-103	0-500
44-12-108	0-500

Apiaries Law (Chapter 15)

<u>Violations</u>	<u>Penalties</u>
44-15-106	0-500
44-15-107	0-500
44-15-108	0-500
44-15-109	0-500
44-15-110	0-500
44-15-112	0-500
44-15-113	0-500
44-15-115	0-500

Baby Chicks (Chapter 16)Custom Hatching or Producing For Sale (Part 2)

<u>Violations</u>	<u>Penalties</u>
44-16-201	0-500
44-16-203 (1)	0-500

Custom Hatching or Producing For Sale (Part 2) cont'd.

44-16-203 (2)	0-500
44-16-203 (3)	0-500
44-16-203 (4)	0-500
44-16-204	0-500

Dogs and Cats (Chapter 17)Dogs and Cat Dealers (Part 1)

<u>Violations</u>	<u>Penalties</u>
44-17-104	0-500
44-17-107 (1)	0-500
44-17-107 (2)	0-500
44-17-107 (3)	0-500
44-17-107 (4)	0-500
44-17-108	0-500
44-17-109	0-500
44-17-110	0-500
44-17-111	0-500
44-17-112	0-500
44-17-113	0-500
44-17-114	0-500
44-17-115	0-500
44-17-117	0-500
44-17-118	0-500

Dogs and Cat Humane Death Act - (Part 3)

<u>Violations</u>	<u>Penalties</u>
44-17-303	0-500
44-17-304	0-500

Commercial Instruments and Transactions - Title 47Weights and Measures (Chapter 26)Testing and Sealing - Use of Weights and Measures (Part 2)

<u>Violations</u>	<u>Penalties</u>
47-26-211 (c)	0-500
47-26-212 (c)	0-500
47-26-221 (a)	0-500
47-26-221 (b)	0-500
47-26-221 (c)	0-500
47-26-223 (a)	0-500
47-26-223 (b)	0-500
47-26-224	0-500

Testing and Sealing - Use of Weights and Measures (Part 2) cont'd.

47-26-225	0-500
47-26-226	0-500
47-26-227	0-500
47-26-228	0-500
47-26-229	0-500
47-26-230	0-500
47-26-232 (a)	0-500
47-26-232 (b)	0-500
47-26-233 (a)	0-500
47-26-233 (c)	0-500
47-26-236	0-500
47-26-238 (b) (1)	0-500
47-26-238 (b) (2)	0-500
47-26-238 (b) (3)	0-500
47-26-238 (b) (4)	0-500
47-26-238 (b) (5)	0-500
47-26-238 (b) (6)	0-500
47-26-238 (b) (7)	0-500
47-26-238 (b) (8)	0-500
47-26-238 (b) (9)	0-500

Weighmasters (Part 4)

<u>Violations</u>	<u>Penalties</u>
47-26-408	0-500
47-26-413	0-500
47-26-414 (a)	0-500
47-26-414 (b)	0-500
47-26-414 (c)	0-500
47-26-414 (d)	0-500
47-26-415	0-500
47-26-416 (a)	0-500
47-26-416 (b)	0-500
47-26-416 (c)	0-500
47-26-417	0-500
47-26-418	0-500
47-26-420	0-500
47-26-422	0-500
47-26-423	0-500

Scale Repairmen (Part 5)

<u>Violations</u>	<u>Penalties</u>
47-26-502	0-500
47-26-508	0-500
47-26-509	0-500



Moisture-Measuring Devices (Part 7)

<u>Violations</u>	<u>Penalties</u>
47-26-704	0-500
47-26-705 (a)	0-500
47-26-705 (b)	0-500
47-26-706	0-500
47-26-707	0-500

Food, Drugs and Cosmetics - Title 53Food, Drug and Cosmetic Act (Chapter 1)General Provisions (Part 1)

<u>Volations</u>	<u>Penalties</u>
53-1-103 (a) (1)	0-500
53-1-103 (a) (2)	0-500
53-1-103 (a) (3)	0-500
53-1-103 (a) (4)	0-500
53-1-103 (a) (5)	0-500
53-1-103 (a) (6)	0-500
53-1-103 (a) (7)	0-500
53-1-103 (a) (8)	0-500
53-1-103 (a) (9)	0-500
53-1-103 (a) (10)	0-500
53-1-103 (a) (11)	0-500
53-1-103 (a) (12)	0-500
53-1-103 (a) (13)	0-500
53-1-103 (a) (14)	0-500
53-1-103 (a) (15)	0-500
53-1-110 (a)	0-500
53-1-113	0-500

Enforcement (Part 2)

<u>Violations</u>	<u>Penalties</u>
53-1-202 (a)	0-500
53-1-202 (b)	0-500
53-1-202 (d)	0-500
53-1-206	0-500
53-1-208	0-500
53-1-209	0-500

Dairy Law - (Chapter 3)General Provisions (Part 1)

ViolationsPenalties

53-3-105 (a)	0-500
53-3-105 (b)	0-500
53-3-106 (a)	0-500
53-3-106 (b)	0-500
53-3-107 (a)	0-500
53-3-107 (b)	0-500
53-3-107 (c)	0-500
53-3-107 (d)	0-500
53-3-109	0-500
53-3-110	0-500
53-3-112	0-500
53-3-114	0-500

Unfair Trade Practices (Part 2)

53-3-202 (a) (1)	0-500
53-3-202 (a) (2)	0-500
53-3-202 (a) (3)	0-500
53-3-202 (a) (4)	0-500
53-3-202 (a) (5)	0-500
53-3-202 (a) (6)	0-500
53-3-202 (b) (1)	0-500
53-3-202 (b) (2)	0-500
53-3-202 (b) (3)	0-500
53-3-202 (b) (4)	0-500
53-3-202 (c)	0-500
53-3-202 (d)	0-500

Frozen Desserts (Part 3)

53-3-304 (1)	0-500
53-3-304 (2)	0-500
53-3-304 (3)	0-500
53-3-304 (4)	0-500
53-3-304 (5)	0-500
53-3-304 (6)	0-500
53-3-304 (7)	0-500
53-3-304 (8)	0-500

Meat Inspection and Regulations (Chapter 7)Horsemeat (Part 1)

53-7-101	0-500
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Meat and Poultry Inspection (Part 2)

53-7-204 (a)	0-500
53-7-204 (b)	0-500
53-7-204 (c)	0-500
53-7-204 (d)	0-500

Meat and Poultry Inspection (Part 2) cont'd.

53-7-205 (a)	0-500
53-7-205 (c)	0-500
53-7-206 (1)	0-500
53-7-206 (2)	0-500
53-7-206 (3)	0-500
53-7-206 (4)	0-500
53-7-206 (5)	0-500
53-7-206 (6)	0-500
53-7-206 (7)	0-500
53-7-206 (8)	0-500
53-7-206 (9)	0-500
53-7-206 (10)	0-500
53-7-206 (11)	0-500
53-7-206 (12)	0-500
53-7-206 (13)	0-500
53-7-206 (14)	0-500
53-7-206 (15)	0-500
53-7-206 (16)	0-500
53-7-206 (17)	0-500
53-7-207	0-500
53-7-208	0-500
53-7-212	0-500
53-7-216	0-500
53-7-219 (a)	0-500
53-7-220	0-500

Biological Residue (Part 3)

53-7-304	0-500
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Food Establishments (Chapter 8)Retail Food Store Inspections (Part 2)

53-8-207 (a)	0-500
53-8-207 (b)	0-500
53-8-207 (d)	0-500
53-8-207 (e)	0-500
53-8-208 (a)	0-500
53-8-210 (b)	0-500
53-8-214	0-500
53-8-216	0-500
53-8-217 (a)	0-500
53-8-217 (c)	0-500
53-8-218	0-500
53-8-219	0-500
53-8-220	0-500

Vending Machines and Commissaries (Chapter 12)

53-12-102 (d)	0-500
53-12-103 (a)	0-500

Vending Machines and Commissaries (Chapter 12) cont'd.

53-12-103 (b)	0-500
53-12-104 (a)	0-500
53-12-104 (b)	0-500
53-12-104 (c)	0-500
53-12-104 (d)	0-500

Safety and Health - Title 68

Hazardous Substances Act (Chapter 27) (Part 1)


68-27-104 (1)	0-500
68-27-104 (2)	0-500
68-27-104 (3)	0-500
68-27-104 (4)	0-500
68-27-104 (5)	0-500
68-27-104 (6)	0-500
68-27-104 (7)	0-500
68-27-104 (8)	0-500
68-27-107 (a)	0-500
68-27-110	0-500
68-27-111	0-500

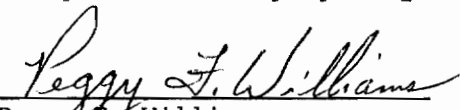
(2) In determining the amount of any penalty to be assessed pursuant to this rule, the Department, any board or commission may consider such factors as the following:

- (a) Willfulness or wantonness of the violation.
- (b) Repetitions of the violations.
- (c) Magnitude of the risk or harm caused by the violation.

Authority: TCA 4-3-203, 4-3-204.

Signature of agency officer or officers directly responsible for proposing and/or drafting these rules.

  
 \_\_\_\_\_  
 K. David Waddell  
 Assistant Commissioner

  
 \_\_\_\_\_  
 Peggy F. Williams  
 Staff Attorney

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Agriculture on the 20<sup>th</sup> day of September, 1989.

Further, I certify that these rules are properly presented for filing, a notice of rulemaking hearing have been filed in the Department of State on the 29<sup>th</sup> day of Dec., 1988, and such notice of rulemaking hearing having been published in the Jan. 13. 1989, issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 16<sup>th</sup> day of Feb., 1989.

L.H. Ivy  
L.H. Ivy  
Commissioner

Subscribed and sworn to before me this the 21<sup>st</sup> day of Sept., 1989.

Billie M. Inghram  
Notary Public

My commission expires March 27, 1993.

All rulemaking hearing 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.

Charles W. Burson  
Charles W. Burson  
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State and will become effective on the 20<sup>th</sup> day of November 1989.

Gentry Crowell  
Gentry Crowell  
Secretary of State

By: Mike Tamm

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Impact Statement

(1) This rule is intended to establish the minimum and maximum civil penalty that can be imposed by the Department of Agriculture on any person violating any of the provisions, and/or positive commands, and/or prohibitions, imposed by the various statutes whose enforcement falls within the jurisdiction and authority of the Commissioner of Agriculture, and/or the various Boards and Commissions of the Department. Such civil penalties may be imposed for violations in addition to or in lieu of any other penalties provided by law.

(2) In addition to the general authority of the Commissioner, set forth in TCA Section 4-3-203, to promulgate rules and regulations to carry out the intent of TCA Section 4-3-204, the statutes provide specific authority to do so at TCA Sections 43-10-114(a)(4) and (5); 43-10-120; 43-11-113; 43-11-210; 43-11-302; 43-19-301; 44-2-405; 44-2-1013; 44-2-1105; 44-6-110; 44-10-204; 44-11-112; 44-12-107; 44-15-104; 44-16-101; 44-17-115; 47-26-207; 47-26-222(c); 47-26-403; 47-26-511; 47-26-703; 53-1-207; 53-3-104; 53-3-203(c); 53-3-307(c); 53-7-102; 53-7-213; 53-7-305; 53-8-205; 53-12-102(a); 68-27-109.

(3) This rule will affect those persons or entities who label, breed, grow, possess, offer, expose, transport or distribute for sale: agricultural seeds, vegetable seeds, screenings, commercial fertilizers, liming materials, Anhydrous Ammonia, tobacco, commercial feed, meat, poultry, livestock and hides, bees, baby chicks, dogs and cats, agricultural products sold by the pound, bushel, ton (or any part thereof), ounce, quart, gallon (or any part thereof), food stores and food establishments. The majority of those affected by this rule have no objection to its adoption.

(4) There are no opinions of the Attorney General which relate to this rule.

(5) Any increase in expenditures to enforce or apply this rule will be offset by an increase in state and local government revenues.

(6) David Waddell, Assistant Commissioner of Agriculture  
Peggy Williams, Chief Counsel

(7) David Waddell, Assistant Commissioner of Agriculture

(8) There have been no requests for additional information relevant to this rule.