

Department of State
Division of Publications
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For Department of State Use Only

Sequence Number: 01-18-12
 Rule ID(s): 5138
 File Date: 01/31/2012
 Effective Date: 06/30/2012

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Regulatory Services
Contact Person:	Keith Hodges
Address:	P.O. Box 40627, Nashville, Tennessee
Zip:	37204
Phone:	(615) 837-5331
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0080-02-09	Regulations Concerning Livestock Markets
Rule Number	Rule Title
0080-02-09-.01	Annual Inspection.
0080-02-09-.02	Livestock Market – Facilities.
0080-02-09-.03	Sanitation.
0080-02-09-.04	Waste Disposal.
0080-02-09-.05	Care and Handling.

Chapter 0080-02-09
 Regulations Concerning Livestock Markets

New Rules

0080-02-09-.01 Annual Inspection.
 0080-02-09-.02 Livestock Market – Facilities.
 0080-02-09-.03 Sanitation.
 0080-02-09-.04 Waste Disposal.
 0080-02-09-.05 Care and Handling.

- (1) Livestock markets shall be inspected at least annually and prior to the first issuance of a livestock

market license.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.02 Livestock Market – Facilities.

- (1) All livestock market operators shall provide and maintain adequate facilities for loading, unloading, holding, identifying, segregating and otherwise handling livestock. The minimum requirements are as follows:
 - (a) Pens shall have sufficient space and be of sufficient number to allow the safe and humane handling of all kinds of livestock moved through the facility.
 - (b) Floors of pens and alleyways shall be adequately drained, bedded with material sufficient to absorb animal waste, and free from holes and depressions.
 - (c) A separate pen(s) shall be provided for animals infected with a contagious, infectious or communicable disease, and shall be thoroughly cleaned and disinfected after each use.
 - (d) Suitably sized chutes, constructed of durable material, shall be provided for tagging or identifying animals. Such chutes shall be located to minimize interference with routine handling and movement of livestock through the market.
 - (e) Adequate lighting shall be provided in all areas of the market to allow close observation or inspection of animals, wherever they are confined on the premises.
 - (f) Adequate ventilation shall be provided to allow for the overall health and well-being of the livestock.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.03 Sanitation.

- (1) The livestock market and its surroundings (including yards, pens, alleyways, chutes and all other equipment used for receiving, yarding, handling and otherwise selling livestock) shall be kept in a clean and sanitary condition at all times.
- (2) All market-owned trucks, trailers or other market-owned conveyances used for transporting livestock shall be maintained in a sanitary condition at all times. The state veterinarian (or an authorized agent) may order any vehicle to be thoroughly cleaned and disinfected by the operator to prevent the spread of disease.
- (3) Cleaning and disinfecting agents and methods shall be approved by the state veterinarian.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.04 Waste Disposal.

- (1) Livestock market operators shall not allow sewage, drainage, waste water or trash to accumulate. Soiled bedding and manure or other waste solids shall be removed in a timely manner. Weeds and accumulated debris that could harbor rodents shall be eliminated.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

0080-02-09-.05 Care and Handling.

- (1) All livestock market operators shall maintain the following minimum standards of care and handling:
 - (a) Livestock kept at a livestock market for more than twenty-four (24) hours from the time of

receipt at the market must have access to feed and water.

- (b) Livestock must be moved with a minimum of excitement and discomfort to the animals. Cattle shall be cared for and handled in accordance with the Beef Quality Assurance program's guidelines, which are posted on the department's website at www.tn.gov/agriculture/regulatory/animals.shtml.
- (c) Non-ambulatory or disabled livestock must be handled using humane methods.
- (d) If euthanasia is required of any livestock, the procedure shall be performed in accordance with the American Veterinary Medical Association's Guidelines on Euthanasia, a link to which is posted on the department's website at www.tn.gov/agriculture/regulatory/animals.shtml.

Authority: T.C.A. §§ 4-3-203, 44-2-102 and 44-11-112.

*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 proposed rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 12/20/2011, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: December 20, 2011

Signature: _____

Name of Officer: Julius T. Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: December 20, 2011

Notary Public Signature: _____

My commission expires on: 09/08/2013



All proposed 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.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

1-17-12

Date

Department of State Use Only

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PUBLICATIONS

Filed with the Department of State on:

01/31/2012

Effective on:

06/30/2012



Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to § T.C.A. 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

- (1) Type or types of small business subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:

Small businesses meeting the definition of "livestock market" under Tenn. Code Ann. § 44-11-101 would bear the cost of and/or directly benefit from the proposed rules.

- (2) Identification and estimate of the number of small businesses subject to the proposed rule:

There are 42 licensed livestock markets in Tennessee. The number of unlicensed livestock markets is not known.

- (3) Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

There will be no projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rules.

- (4) Statement of the probable effect on impacted small businesses and consumers:

Some livestock markets will have to spend money to comply with the proposed rules. Some are already in compliance. The probable effect will vary on a case-by-case basis.

- (5) Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:

There are no less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rules.

- (6) Comparison of the proposed rule with any federal or state counterparts:

Federal regulations prohibit the movement of diseased livestock and require facilities, premises and means of conveyance used in connection with the interstate movement of livestock to be maintained in a clean and sanitary condition. USDA-APHIS-approved livestock facilities are required to keep records and be well-constructed, well-lighted and maintained in a sanitary condition and in a state of good repair. Indiana has similar regulations, among other states.

- (7) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

As most if not all livestock markets would qualify as small businesses under Tenn. Code Ann. § 4-5-102(13), exempting small businesses would undermine the purposes of the proposed rules.

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rules would have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 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;

The proposed rules would establish basic facility, sanitation and animal care standards. The overall aim is to make livestock markets across the state more consistent in these respects.

- (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;

There is no federal law or regulation or any state law or regulation that mandates the promulgation of the proposed rules or establishes guidelines relevant to them.

- (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 national Livestock Marketing Association, Tennessee Livestock Marketing Association, Tennessee Livestock Producers and Tennessee Cattlemen's Association were contacted by the department and support the adoption of the proposed rules.

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

There are no attorney general and reporter opinions or judicial rulings that directly relate to the proposed rules.

- (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;

State and local government revenues and expenditures will not change as a result of the promulgation of the proposed rules. This conclusion is based on the fact that the proposed rules do not include any new fees and will not cost the department any additional funds to enforce.

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

Charles W. Hatcher, DVM
State Veterinarian
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;

Charles W. Hatcher, DVM
State Veterinarian
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

Charles W. Hatcher, DVM
Tennessee Department of Agriculture
Division of Regulatory Services – Animal Health
400 Hogan Road
Nashville, Tennessee 37220
(615) 837-5183
charles.hatcher@tn.gov

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

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Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Regulatory Services
Contact Person:	Keith Hodges
Address:	P.O. Box 40627, Nashville, Tennessee
Zip:	37204
Phone:	(615) 837-5331
Email:	keith.hodges@tn.gov

Type of Action on Rule:

Stay of Effective Date of Rules

Rule Filing Date: (mm/dd/yy)
 Rule Original Effective Date: (mm/dd/yy)
 Length of Stay (not to exceed 75 days): _____
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Stay

Stay Filing Date: (mm/dd/yy)
 Stay Effective Date: (mm/dd/yy)
 New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

Rule Filing Date: 01/31/12
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0080-02-09-.05	Care and Handling.

Date: May 2, 2012

Signature: *Julius T. Johnson*

Name of Officer: Julius T. Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: May 2, 2012

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/08/2013



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Filed with the Department of State on: 05/02/2012

Tre Hargett
Tre Hargett
Secretary of State

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