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Sequence Number: 04-10-10
 Rule ID(s): 4706
 File Date: 04/23/2010
 Effective Date: 04/28/2010

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-205 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 thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. 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.

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Regulatory Services
Contact Person:	Keith Hodges
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Revision Type (check all that apply):

- Amendments
- New
- Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
0080-2-14	Regulations for Surveillance in Swine
Rule Number	Rule Title
0080-2-14-.01	General
0080-2-14-.02	Other Disease Testing

Chapter 0080-2-14
 Regulations for Surveillance of Swine

Amendments

The title of Chapter 0080-2-14 shall be amended by deleting the word "Pseudorabies," so that, as amended, the title of the chapter shall read "Regulations for Surveillance of Swine."

Chapter 0080-02-14 is amended by deleting the chapter in its entirety and substituting instead the following language so that, as amended, the chapter shall read:

0080-02-14-.01 Definitions.

- (1) For purposes of these rules, the following definitions shall apply:
 - (a) Private Wildlife Preserve - A privately owned or lease controlled tract of land on which a person may hunt captive wildlife originating from a legal source.

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

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

0080-02-14-.02 General.

- (1) All swine located in Tennessee are subject to being monitored for Pseudorabies in accordance with the National Pseudorabies Program Standards.
- (2) Upon notice from the state veterinarian that a herd has been selected as a representative herd for testing, the owner of the herd shall have ninety (90) days to have his herd monitored for Pseudorabies at the level established by the National Pseudorabies Program Standards.
- (3) The number of swine tested each year shall be determined by the state veterinarian in accordance with the National Pseudorabies Program Standards, but in no case shall it be greater than twenty-five percent (25%) of the breeding swine population.

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

0080-02-14-.03 Other Disease Testing

- (1) Swine located in Tennessee are subject to surveillance testing for Brucellosis, Pseudorabies, or other diseases, as ordered by the Tennessee state veterinarian.

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

0080-02-14-.04 Private Wildlife Preserves.

- (1) Except by permission of the state veterinarian, swine of Tennessee origin that are acquired for use on a private wildlife preserve, and breeding swine of Tennessee origin that are acquired by an owner or operator of a private wildlife preserve and whose offspring are intended for use on a private wildlife preserve, shall:
 - (a) Bear official, individual identification as set forth in 9 C.F.R. 71; and
 1. Have evidence of negative Pseudorabies and Brucellosis tests taken within ninety (90) days prior to changing ownership; or
 2. Have originated from a Validated Brucellosis-Free and Qualified Pseudorabies-Negative herd that has maintained such statuses through testing; or
 - (b) Upon order of the state veterinarian, be quarantined at the swine's destination and retested within sixty (60) days of changing ownership.
- (2) Any swine originating from out of state that are acquired for use on a private wildlife preserve, and breeding swine originating from out of state that are acquired by an owner or operator of a private wildlife preserve and whose offspring are intended for use on a private wildlife preserve, shall comply with the rules for sporting swine under 0080-02-01-.07(4).
- (3) Except by permission of the state veterinarian, swine released on a private wildlife preserve shall:
 - (a) Bear official, individual identification as set forth in 9 C.F.R. 71; and
 1. Have evidence of negative Pseudorabies and Brucellosis tests taken within twelve (12) months prior to release; or
 2. Have originated from a Validated Brucellosis-Free and Qualified Pseudorabies-Negative herd that has maintained such statuses through testing; or

- (4) Owners or operators of private wildlife preserves shall record, on forms provided by the commissioner, the official identification numbers of all swine released on such preserve and the corresponding date that each individual swine was released. Such records are to be kept for a minimum of three (3) years and be available for inspection at any time by agents of the Department of Agriculture.

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

*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 November 19, 2009, 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 thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: November 19, 2009

Signature: _____

Name of Officer: Terry J. Oliver

Title of Officer: Deputy Commissioner, TN Department of Agriculture



Subscribed and sworn to before me on: November 19, 2009

Notary Public Signature: _____

My commission expires on: _____

Joyce M Jackson
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.

RE Cooper Jr

Robert E. Cooper, Jr.
Attorney General and Reporter

4-19-20

Date

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Effective on: _____

4/23/10

9/28/10

Tre Hargett

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 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:

Swine producers could benefit from the proposed amendments, depending on whether a disease outbreak has been detected. Swine producers would not bear any additional costs at this time.

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

The number of swine producers in Tennessee is impossible to determine.

- (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:

Costs associated with the proposed amendments would be negligible.

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

The proposed amendments would protect the health of Tennessee's commercial swine industry from the spread of regulatory infectious diseases (e.g. Brucellosis and Pseudorabies). Consumers would not be adversely affected, but would benefit from the added swine disease protections, which could result in higher food prices if not implemented.

- (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 amendments.

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

The proposed amendments are consistent with existing federal regulations. The proposed amendments also mirror regulations already in force in 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.

Exempting small businesses from the proposed amendments would render them pointless, and would increase the risk posed to the Tennessee commercial swine industry by regulated infectious diseases.

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 amendments would clarify some provisions of existing Chapter 0080-02-14. A new section, Rule 0080-02-14-.02 Other Disease Testing, was added that would allow the Department to conduct surveillance testing for other disease purposes.

- (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 state law or regulation mandating the promulgation of, or establishing guidelines for, the amendments and new rule.

- (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 proposed amendments would most directly affect swine producers and livestock markets. Such persons and organizations might urge rejection of the proposed amendments, because the additional testing requirements might be viewed as being inconvenient and unnecessarily burdensome. Because the testing will only happen in the event of a disease outbreak or an increased need for surveillance, and because the cost of testing would likely be borne by the State, there should be no additional cost to swine producers and livestock markets.

- (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 opinions or judicial rulings that directly relate to the proposed amendments.

- (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 probable increase or decrease in state and local government revenues and expenditures would be minimal.

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

Dr. Philip Gordon, Assistant 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;

Dr. Philip Gordon, Assistant State Veterinarian, Tennessee Department of Agriculture

- (H)** Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Dr. Philip Gordon, Assistant State Veterinarian
Tennessee Department of Agriculture
400 Hogan Road

Nashville, Tennessee 37220
Phone: (615) 837-5184

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

The Department has not received a request for additional information.