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For Department of State Use Only

Sequence Number: 04-11-10
 Rule ID(s): 4707
 File Date: 04/23/2010
 Effective Date: 09/28/2010

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
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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
0080-2-16	Poultry – General Requirements
Rule Number	Rule Title
0080-2-16-.01	Definitions.
0080-2-16-.02	Surveillance Testing of Poultry.

Chapter 0080-2-16
 Regulations for Surveillance Testing of Poultry

New Rules

Table of Contents

0080-2-16-.01 Definitions.

0080-2-16-.02 Surveillance Testing of Poultry.

0080-2-16-.01 Definitions

(1) For Purposes of these Rules:

(a) Poultry – Poultry shall be as defined in 9 C.F.R. 145.1.

(a) Poultry - Poultry shall be as defined in 9 C.F.R. 145.1.

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

0080-02-16-.02 Surveillance Testing of Poultry.

- (1) All poultry shall be subject to surveillance testing for Pullorum-Typhoid, avian influenza, Exotic Newcastle Disease, or other diseases as determined by the Tennessee state veterinarian.

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 18, 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 18, 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 18, 2009

Notary Public Signature: _____

My commission expires on: September 8, 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

4-19-20

Date

Department of State Use Only

Filed with the Department of State on: 4/23/10

Effective on: 9/28/10



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:

Small poultry producers and traders, as well as fairs, exhibitions and sales, would benefit from the proposed amendments. There would be no additional costs.

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

The proposed amendments will likely affect small poultry producers and traders, as well as fairs, exhibitions and sales. There is no way to reliably estimate the number of small poultry producers and traders in Tennessee. The number of poultry sales, fairs and exhibitions in Tennessee is approximately 80-100.

- (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 minimal unless a disease outbreak was detected.

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

The proposed amendments would protect the health of Tennessee's commercial poultry industry from the spread of regulatory infectious diseases (e.g. avian influenza, pullorum-typhoid disease and Exotic Newcastle Disease) by providing for surveillance testing of poultry. Consumers would not be adversely affected, but would benefit from the added poultry disease protections, which could result in higher food prices if not implemented. In addition, the public health would be protected in the event of an outbreak of an avian influenza that could be transmitted to humans.

- (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:

There proposed amendments are consistent with existing federal regulations concerning poultry surveillance testing for notifiable avian influenza. The proposed amendments are consistent with 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 would render the proposed amendments pointless, and would increase the risk posed to Tennessee poultry and the commercial poultry industry in Tennessee 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 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;

New Chapter 0080-02-16 would allow surveillance testing of any poultry, including at sales or auctions, and would provide consistency with the amended fair regulations. Surveillance testing, which consists of conducting tests on a given sample of a population, has proven to be a reliable method of detecting infectious diseases early.

- (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 new rules.

- (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 small poultry producers and traders, as well as fairs, exhibitions and sales. Such persons or organizations would neither urge adoption nor rejection, as the new rules would not relieve management of any duty under the law and would not impose any additional requirements on management.

- (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 difference 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
440 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.