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For Department of State Use Only

Sequence Number: 04-12-10
 Rule ID(s): 4708
 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
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/Rule Title per row)

Chapter Number	Chapter Title
0080-02-04	Removal of Identification from Cattle
Rule Number	Rule Title
0080-02-04-.01	General.

Chapter 0080-02-04
 Removal of Identification from Cattle

Amendments

The title of Chapter 0080-02-04, Removal of Identification from Cattle, shall be changed to Removal of Identification from Livestock.

Chapter 0080-02-04, Removal of Identification from Cattle shall be amended by deleting the text of the chapter in its entirety and substituting instead the following language so that, as amended, the chapter shall read:

0080-02-04-.01 Definitions.

- (1) For Purposes of these Rules:
 - (a) Official Identification – A means of identifying an animal or group of animals in accordance with 9 C.F.R. 71.1.

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

- (1) No person shall remove official identification from any livestock in Tennessee, except as follows:
 - (a) Persons who have kept livestock for breeding, feeding or grazing for a period of sixty (60) days or more are permitted to remove official backtags and sale tags only.
 - (b) Duly authorized state or federal employees may remove official identification at any time, for any reason.

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.
 Attorney General and Reporter

4-19-20

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

4/23/10
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:

The proposed amendments will affect buyers of livestock, livestock dealers, and livestock owners.

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

There are approximately 200 livestock dealers in Tennessee. It would be very difficult to estimate the number of livestock buyers or owners affected.

- (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 would be no projected reporting, recordkeeping, or administrative costs.

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

There would be no effect on impacted small businesses and consumers.

- (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 animal identification regulations for swine, sheep, and cattle in interstate commerce and are consistent with regulations 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 livestock and the commercial livestock industry by regulated infectious diseases. This is because the maintenance of official identification enables the epidemiological tracing of livestock during disease investigation. Maintenance of official identification also aids in the identification of lost or stolen livestock.

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 expand the existing rules to prohibit the removal of official identification

from any livestock, including poultry. Official identification is necessary for the tracing and unique identification of livestock for disease investigation 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 proposed amendments.

- (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 livestock dealers, livestock owners, and buyers of livestock. Some livestock dealers might urge rejection of these amendments, because the amendments would prohibit them from removing official identification from animals so that such animals don't appear "used" to prospective buyers – a common practice, in the Department's experience. The other groups listed would either be neutral about the adoption of the proposed amendments, or would urge that they be adopted.

- (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 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
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.

RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF ANIMAL INDUSTRIES

CHAPTER 0080-2-4
REMOVAL OF IDENTIFICATION FROM CATTLE LIVESTOCK

TABLE OF CONTENTS

0080-2-4.01 DEFINITIONS.

(1) For Purposes of these Rules:

- (a) Official Identification – A means of identifying an animal or group of animals in accordance with 9 C.F.R. 71.1.

Authority: T.C.A. §§ 4-3-203 and 44-10-204.

0080-2-4.01-02 GENERAL.

- (1) ~~Whereas the maintenance of identification of cattle in trade channels has been shown to be essential to the success of efforts to control or eradicate brucellosis, tuberculosis, and other diseases of cattle in Tennessee; n~~ No person, except as exempted herein, shall remove backtags, ear tags, or other official identification from any cattle livestock in Tennessee markets or other assembly points, or from any cattle which are in trade channels within the state except as follows:-
- (a) ~~Exemptions: farmers~~ Persons who have ~~purchased~~ kept ~~cattle livestock~~ for breeding, feeding or grazing for a period of sixty (60) days or more are permitted to remove official back tags and sale tags only. ~~“Farmer,” for purposes of this regulation, shall mean a person whose dealings in cattle consist of at least ninety percent (90%) breeding, feeding, or grazing cattle for periods of sixty (60) days or more, and of not more than ten (10) percent buying and selling cattle retained for less than sixty (60) days.~~
- ~~1. Removal of backtags or sale tags by~~
- ~~2. Cattle less than one (1) year of age.~~
- ~~(b)3.~~ Duly authorized state or federal employees may remove official identification at any time, for any reason.

Authority: T.C.A. §§44-2-1302; 44-10-204; 44-11-112 and 4-3-203. Administrative History: Original rule certified June 5, 1974.