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Sequence Number: 06-06-14
Rule ID(s): 5731
File Date: 6/9/14
Effective Date: 11/28/14

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:	Tennessee Department of Agriculture
Division:	Consumer and Industry Services
Contact Person:	K. David Waddell
Address:	P.O. Box 40627
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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
0080-02-07	Diagnostic Fees
Rule Number	Rule
0080-02-07-.01	Bacteriology and Parasitology
0080-02-07-.02	Virology and Immunology
0080-02-07-.03	Pathology
0080-02-07-.04	Toxicology
0080-02-07-.05	Miscellaneous Charges

Chapter 0080-02-07
Diagnostic Fees

Amendment

Chapter 0080-02-07 Diagnostic Fees is amended by deleting the Chapter in its entirety and replacing it with the following language:

Chapter 0080-02-07
Diagnostic Fees

0080-02-07-.01 Bacteriology and Parasitology

- | | | |
|-----|------------------------|---|
| (1) | Aerobic culture | \$15.00 per swab, tissue, site, or sample |
| (2) | Antibiotic sensitivity | \$10.00 per isolate |

- | | | |
|-----|-----------------------------|----------------------|
| (3) | Dermatophyte culture | \$15.00 |
| (4) | Anaerobic culture | \$15.00 |
| (5) | Stain, gram, acid fast | \$5.00 |
| (6) | Ectoparasite Identification | \$15.00 per parasite |
| (7) | Fecal flotation examination | \$15.00 |

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-02-07-.02 Virology and Immunology

- | | | |
|-----|-----------------------------------|--------------|
| (1) | Antibody testing | \$18.00 each |
| (2) | Polymerase chain reaction testing | \$38.00 each |

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-02-07-.03 Pathology

- | | | |
|------|--|---|
| (1) | Histopathology/Biopsy | \$38.00 per specimen |
| (2) | Histopathology additional tissue (same animal) | \$22.00 per specimen |
| (3) | Necropsy (no toxicology) | \$80.00 per animal, limb, organ or head |
| (4) | Necropsy (with toxicology) | \$110.00 |
| (5) | Necropsy (with spinal cord exam) | \$100.00 |
| (6) | Cytology | \$30.00 per tissue (per problem site) |
| (7) | Slide preparation/cytology | \$15.00 per specimen |
| (8) | Decalcification | \$10.00 per tissue |
| (9) | Special stains | \$5.00 per stain |
| (10) | Additional slide preparation/HE | \$8.00 per slide |
| (11) | Additional slide preparation/IHC, charged | \$10.00 per block |
| (12) | Submitter special stain | \$10.00 per slide (requested by client) |

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-02-07-.04 Toxicology

- | | | |
|-----|----------------------|---------|
| (1) | First test | \$35.00 |
| (2) | Each additional test | \$18.00 |

Authority: T.C.A. §§4-3-203 and 43-1-703.

0080-02-07-.05 Miscellaneous Charges

- | | | |
|-----|----------------------------|---------|
| (1) | Save remains or save ashes | \$50.00 |
|-----|----------------------------|---------|

- (2) Disposal (animal or parts) \$25.00 per 500 pounds
- (3) Leaky package/biohazard handling \$15.00
- (4) Shipping and Handling \$20.00
- (5) Packaging fee \$5.00
- (6) Accessioning fee \$2.00
- (7) Faxing \$2.00
- (8) Sample supplies Cost plus 10%
- (9) Past-due accounts 5% per month

Authority: T.C.A. §§4-3-203 and 43-1-703.

* 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 a proposed rule(s), lawfully promulgated and adopted.

Date: April 16, 2014

Signature: _____

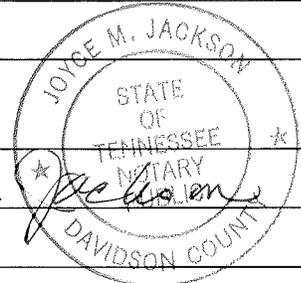
Name of Officer: Julius Johnson

Title of Officer: Commissioner

Subscribed and sworn to before me on: April 16, 2014

Notary Public Signature: _____

My commission expires on: 09/11/2017



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

5-22-14

Date

Department of State Use Only

Filed with the Department of State on: 6/9/14

Effective on: 11/28/14



Tre Hargett
Secretary of State

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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:

All persons who submit samples from companion animals to the diagnostic laboratory are subject to these fees.

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

The diagnostic lab ran 215,557 samples in FY13. 13,583 were samples that were subject to these fees. The majority were submitted by veterinarians on behalf of individual pet owners. There is no way to determine the number of small businesses that may have submitted a sample.

- (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:

These rules will not affect reporting, recordkeeping or administrative costs.

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

Consumers who submit samples for testing on their companion animals will see an increase in the fees charged for some tests.

- (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:

The fee increases are kept at the lowest level possible to maintain the service the public has come to expect.

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

There is no federal counterpart.

- (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.

Many small businesses that raise animals for food and fiber are already exempt from the fees charged under these 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)

If adopted, these rules will not have any impact on the expenditures or revenue of 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;

These proposed amendments reorganize and increase some of the fees charged by the Tennessee Department of Agriculture Animal Diagnostic Laboratory for analysis of samples on companion animals to better reflect the cost of providing the service.

- (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 that mandates promulgation of these 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;

There are no known groups with a position.

- (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 directly relating to these 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;

There will be an increase in revenue to the department of approximately \$160,000. This estimate is based on the number of samples run last fiscal year.

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

K. David Waddell, Tennessee Department of Agriculture, Division of Consumer & Industry Services, Legal Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

K. David Waddell, Tennessee Department of Agriculture, Division of Consumer & Industry Services, Legal Counsel

- (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

Tennessee Department of Agriculture, Ellington Agricultural Center, P.O. Box 40627, Nashville, TN 37204. Office number: 615-837-5331, david.waddell@tn.gov

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

**RULES
OF
TENNESSEE DEPARTMENT OF AGRICULTURE
DIVISION OF ANIMAL HEALTH**

**CHAPTER 0080-02-07
DIAGNOSTIC FEES**

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0080-02-07-.04 Pathology	

0080-02-07-.01 BACTERIOLOGY and PARASITOLOGY.

- (1) ~~Except as provided below, the fee for bacteriological testing is fifteen dollars (\$15.00) per test.~~
- (a) ~~An additional fee of eight dollars (\$8.00) per isolate will be charged for antibiotic sensitivity tests.~~
- (b) ~~The fee for stains is five dollars (\$5.00) per slide.~~
- (2) ~~The fee for aerobic, anaerobic and fungal cultures is fifteen dollars (\$15.00) per culture.~~

(1) <u>Aerobic culture</u>	<u>\$15.00 per swab, tissue, site, or sample</u>
(2) <u>Antibiotic sensitivity</u>	<u>\$10.00 per isolate</u>
(3) <u>Dermatophyte culture</u>	<u>\$15.00</u>
(4) <u>Anaerobic culture</u>	<u>\$15.00</u>
(5) <u>Stain, gram, acid fast</u>	<u>\$5.00</u>
(6) <u>Ectoparasite Identification</u>	<u>\$15.00 per parasite</u>
(7) <u>Fecal floatation examination</u>	<u>\$15.00</u>

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

0080-02-07-.02 IMMUNOLOGY, VIROLOGY and IMMUNOLOGY

- (1) ~~Except as provided below, the fee for immunological testing is fifteen dollars (\$15.00) per test.~~
- (a) ~~The fee for Lyme disease testing is eighteen dollars (\$18.00) per test.~~
- (b) ~~The fee for Coggins (Equine Infectious Anemia) testing is seven dollars (\$7.00) per sample.~~
- (c) ~~An additional fee of five dollars (\$5.00) will be charged for tests submitted by commercial laboratories or institutions.~~

DIAGNOSTIC FEES

CHAPTER 0080-02-07

- | | | |
|-----|-----------------------------------|--------------|
| (1) | Antibody testing | \$18.00 each |
| (2) | Polymerase chain reaction testing | \$38.00 each |

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

~~0080-02-07-.03 VIROLOGY.~~

- (1) ~~The fee for virological testing on tissue is twenty dollars (\$20.00) per test.~~

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

0080-02-07-.04 PATHOLOGY.

- | | | |
|------|--|---|
| (1) | Histopathology/Biopsy | \$38.00 per specimen |
| (2) | Histopathology additional tissue (same animal) | \$22.00 per specimen |
| (3) | Necropsy (no toxicology)
head | \$80.00 per animal, limb, organ, or
head |
| (4) | Necropsy (with toxicology) | \$110.00 |
| (5) | Necropsy (with spinal cord exam) | \$100.00 |
| (6) | Cytology
site) | \$30.00 per tissue (per problem
site) |
| (7) | Slide preparation/cytology | \$15.00 per specimen |
| (8) | Decalcification | \$10.00 per tissue |
| (9) | Special stains | \$5.00 per stain |
| (10) | Additional slide preparation/HE | \$8.00 per slide |
| (11) | Additional slide preparation/IHC, charged | \$10.00 per block |
| (12) | Submitter special stain
client) | \$10.00 per slide (requested by
client) |

- (1) ~~The fees for pathological testing and related services are as follows:~~

- (a) ~~Necropsy — seventy dollars (\$70.00) per animal, limb, head or whole organ (Includes disposal and accessioning fee).~~
- (b) ~~Histopathology/Diagnostic fee — thirty-five dollars (\$35.00) per animal.~~
- (c) ~~Submitter special stain request — twelve dollars (\$12.00) per slide.~~
- (d) ~~Cytology — thirty dollars (\$30.00) per site, tissue or organ.~~
- (e) ~~Cytology slide preparation fee — fifteen dollars (\$15.00) per submitted specimen.~~

DIAGNOSTIC FEES

CHAPTER 0080-02-07

- (f) ~~Extra H&E slide preparation — ten dollars (\$10.00) per block.~~
- (g) ~~Charged slides, 5 per block — ten dollars (\$10.00).~~
- (h) ~~Bone marrow evaluation — thirty-five dollars (\$35.00) per case.~~
- (i) ~~Decalcification — ten dollars (\$10.00) per tissue.~~
- (j) ~~Necropsy, plus common toxicology tests (tests for ethylene glycol, anti-coagulants and pesticides) — one hundred and five dollars (\$105.00) per animal, per case.~~
- (k) ~~Save remains — fifty dollars (\$50.00).~~
- (l) ~~Save ashes — fifty dollars (\$50.00).~~
- (m) ~~Carcass disposal — twenty-five dollars (\$25.00).~~
- (n) ~~Special stains of biopsy specimens for diagnostic purposes (test to be conducted at pathologist's discretion) — two dollars (\$2.00) per stain.~~
- (o) ~~Leaky package/biohazard handling fee — fifteen dollars (\$15.00).~~
- (p) ~~Spinal cord removal — twenty-five dollars (\$25.00).~~

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

0080-02-07-.05 TOXICOLOGY.

(1) <u>First test</u>	<u>\$35.00</u>
(2) <u>Each additional test</u>	<u>\$18.00</u>

- (1) ~~The fees for common toxicological tests (tests for ethylene glycol, anti-coagulants and pesticides) are thirty-five dollars (\$35.00) for the first test, then fifteen dollars (\$15.00) thereafter, per test, per specimen.~~

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

0080-02-07-.06 PARASITOLOGY.

- (1) ~~The fee for parasitological examinations is fifteen dollars (\$15.00) per sample.~~

Authority: T.C.A. §§ 4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment repealing and replacing the rule was filed January 4, 2010; effective July 1, 2010.

0080-02-07-.07 MISCELLANEOUS CHARGES.

(1) <u>Save remains or save ashes</u>	<u>\$50.00</u>
(2) <u>Disposal (animal or parts)</u>	<u>\$25.00 per 500 pounds</u>
(3) <u>Leaky package/biohazard handling</u>	<u>\$15.00</u>
(4) <u>Shipping and Handling</u>	<u>\$20.00</u>

(5)	Packaging fee	\$5.00
(6)	Accessioning fee	\$2.00
(7)	Faxing	\$2.00
(8)	Sample supplies	Cost plus 10%
(9)	Past-due accounts	5.0% per month

(1) ~~Miscellaneous fees are as follows:~~

- (a) ~~Shipping and handling — twenty dollars (\$20.00).~~
- (b) ~~Packaging fee — four dollars (\$4.00).~~
- (c) ~~Sample supplies — cost plus 10%.~~
- (d) ~~Courier — cost of service.~~
- (e) ~~Past due accounts — 5.0% per month.~~
- (f) ~~New test development — cost of service.~~
- (g) ~~Accessioning fee — two dollars (\$2.00) per submission.~~
- (h) ~~Faxing by special request — two dollars (\$2.00).~~
- (i) ~~Samples from commercial laboratories or institutions — add five dollars (\$5.00) per test.~~

Authority: T.C.A. §§4-3-203 and 43-1-703. **Administrative History:** Original rule filed April 28, 2003; effective August 28, 2003. Amendment renumbering the rule from 0080-02-07-.06 was filed January 4, 2010; effective July 1, 2010.