

**Department of State**  
**Division of Publications**  
312 Rosa L. Parks, 8th Floor Tennessee Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: [sos.information@state.tn.us](mailto:sos.information@state.tn.us)

**For Department of State Use Only**

Sequence  
Number: 06-32-09  
Rule ID(s): 4229  
File Date (effective date): 06/30/2009  
End Effective Date: 12/12/2009

## Emergency or Public Necessity Rule(s) Filing Form

Emergency and Public Necessity rules are effective from date of filing for a period of up to 180 days.

|                                 |  |
|---------------------------------|--|
| <b>Agency/Board/Commission:</b> | Department of Agriculture                                    |
| <b>Division:</b>                | Division of Regulatory Services                              |
| <b>Contact Person:</b>          | Keith Hodges   |
| <b>Address:</b>                 | P.O. Box 40627, Nashville, TN                                |
| <b>Zip:</b>                     | 37204  |
| <b>Phone:</b>                   | (615) 837-5331   |
| <b>Email:</b>                   | <a href="mailto:keith.hodges@tn.gov">keith.hodges@tn.gov</a> |

**Rule Type :**

- Emergency Rule  
 Public Necessity Rule

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Statement of Necessity:**

Pursuant to T.C.A §§ 4-5-208 and 44-2-102, the Department of Agriculture is promulgating emergency rules amending the entry requirements for horses, cattle, sheep, goats and cervidae under Chapter 0080-2-1. Tenn. Code Ann. § 4-5-208 provides that, if an agency finds that an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public, the agency may, upon stating its reasons in writing for making such findings, proceed without prior notice or hearing to adopt an emergency rule.

Emergency rules are necessary to protect the health of animals in Tennessee from tuberculosis, and from vesicular stomatitis, a viral disease affecting primarily horses, donkeys, mules, cattle and swine, which can spread rapidly through a herd, and for which there is no known cure. Given the nature of these diseases, the ease with which they can be transmitted, the potential devastation to Tennessee's animal health and livestock markets, and the recent outbreaks in Texas (tuberculosis and vesicular stomatitis) and Nebraska (tuberculosis), the Department finds that there is an emergency creating a danger to the public welfare such that the use of any other form of rulemaking authorized by the Administrative Procedures Act would not adequately protect the public.

For a copy of this notice of rulemaking hearing, contact Keith Hodges, Department of Agriculture, Division of Regulatory Services, P.O. Box 40627, Nashville, Tennessee 37204, telephone (615) 837-5331.

Ken Givens  
Commissioner  
Tennessee Department of Agriculture

Dr. Charles Hatcher, DVM  
State Veterinarian  
Tennessee Department of Agriculture

**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)

| <b>Chapter Number</b> | <b>Chapter Title</b>  |
|-----------------------|---|
| 0080-02-01            | Health Requirements for Admission and Transportation of Livestock and Poultry |
| <b>Rule Number</b>    | <b>Rule Title</b>   |
| 0080-02-01-.05        | Cattle  |
| 0080-02-01-.17        | Reserved  |

Chapter 0080-02-01  
Health Requirements for Admission and  
Transportation of Livestock and Poultry

Amendments

0080-02-01-.05 Cattle, paragraph (3), subparagraph (c), is amended by deleting the text of the subparagraph in its entirety and substituting the following language, so that, as amended, it shall read:

(c) Tuberculosis

1. Cattle originating from Nebraska and Texas may enter Tennessee only under one of the following conditions:
  - (i) The cattle are moved directly to slaughter at an approved slaughtering establishment.
  - (ii) The cattle are sexually intact heifers moved to an approved feedlot, or are steers or spayed heifers; and are either officially identified or identified by premises of origin identification.
  - (iii) The cattle are from an accredited herd and are accompanied by a certificate stating that the accredited herd completed the testing necessary for accredited status with negative results within 1 year prior to the date of movement.
  - (iv) The cattle are sexually intact animals; are not from an accredited herd; are officially identified; and are accompanied by a Certificate of Veterinary Inspection stating that they tested negative on an official tuberculin test conducted within 60 days prior to the date of movement.
2. Tuberculosis requirements for cattle originating in Mexico:
  - (i) Cattle originating in Mexico, including "M" branded steers, must be negative to an official tuberculosis test conducted in the United States not more than thirty (30) days prior to entry into Tennessee.
  - (ii) The above cattle shall enter Tennessee under quarantine and be retested for tuberculosis not less than sixty (60) days nor more than one hundred and twenty (120) days after arrival.

- (I) Cattle for exhibition only, not based or pastured in Tennessee, but entering temporarily and staying less than sixty (60) days are exempt from retest but shall be maintained under quarantine during the exhibition period.
- (II) Cattle for exhibition which are based or pastured in Tennessee are not exempt from the quarantine and retest.

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

Rule 0080-02-01-.17 Reserved is amended by changing the title of the rule to Rule 0080-02-01-.17 Vesicular Stomatitis, and by adding the following text, so that, as amended, the paragraph shall read:

- (1) No horses, cattle, swine, sheep, goats, or cervidae may enter Tennessee from a premises or area that has been quarantined for vesicular stomatitis.
- (2) Horses, cattle, swine, sheep, goats, or cervidae may enter Tennessee from non-quarantined areas of an affected state, provided they are accompanied by a Certificate of Veterinary Inspection issued within 7 days of entering the state, with the following statement written by the accredited veterinarian on the certificate: "The animals represented on this health certificate have not originated from a premises or area under quarantine for vesicular stomatitis and are not exhibiting clinical signs of the virus."

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 emergency or public necessity rules, lawfully promulgated and adopted.

Date: 06/22/09

Signature: *Ken Givens*

Name of Officer: Ken Givens

Title of Officer: Commissioner

Subscribed and sworn to before me on: 06/22/09

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 09/19/09



All emergency or public necessity 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

6-29-09

Date

**Department of State Use Only**

Filed with the Department of State on: 6/30/09

Effective for: 165

\*days

Effective through: 12/12/09

\* Temporary rules may be effective for up to 165 days from the date of filing.

*Tre Hargett by *Yvonne Smith*, POA*

Tre Hargett  
Secretary of State

**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 to Rule 0080-2-1-.05 would impose special conditions on what cattle (and what bison, by operation of existing Rule 0080-2-1-.12) may enter the state from Nebraska and Texas. The proposed amendments to Rule 0080-2-1-.17 would prohibit the importation into Tennessee of horses, cattle, swine, sheep, goats, or cervidae from premises or areas quarantined for vesicular somatitis, and would impose special conditions on the same animals entering from non-quarantined areas of a state in which an area or premises has been quarantined.

- (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 mandating promulgation of these proposed amendments or establishing guidelines relevant thereto.

- (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 persons importing animals into Tennessee. It is unknown whether such persons would urge adoption or rejection of these amendments.

- (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;

There will be no change in state and local government revenues and expenditures resulting from the promulgation of the proposed amendments. This assumption and reasoning is based on the facts that the proposed amendments do not require industry to pay the State anything, and will not cost the State anything to implement.

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

Dr. Charles W. Hatcher, 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. Charles W. Hatcher, 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. Charles W. Hatcher, State Veterinarian

Tennessee Department of Agriculture  
400 Hogan Road  
Nashville, Tennessee 37214  
Phone: (615) 837-5120

- (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.