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**For Department of State Use Only**

Sequence Number: 07-08-11  
Rule ID(s): 4965  
File Date: 07/12/2011  
Effective Date: 12/29/2011

## 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.*

<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
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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 to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0080-02-10	Regulations Concerning Horses and Other Equidae
Rule Number	Rule Title
0080-02-10-.01	Equine Infectious Anemia – Requirements for Change of Ownership

Chapter 0080-02-10  
Regulations Concerning Horses and Other Equidae

Amendments

Subparagraph (a) of paragraph (2) of Rule 0080-02-10-.01 Equine Infectious Anemia Test Requirements for Tennessee Horses is amended by deleting the subparagraph in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

- (a) Have proof that each individual animal tested negative on an official test for Equine Infectious Anemia conducted within twelve (12) months prior to sale. Such horses or other Equidae shall be identified by a legible, unique tattoo or brand; a microchip; a valid equine passport; an EIA paper with digital photos of the animal (including the animal's entire left and right sides and front view) as part of the document; a mane tag provided by the Tennessee Department of Agriculture; a valid, official certificate of veterinary inspection; or other approved identification listed on the department's website. Tennessee licensed livestock markets hosting all-registered Equine sales may use breed registry papers as long as the breed registry papers

match the official EIA negative test chart; or

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)

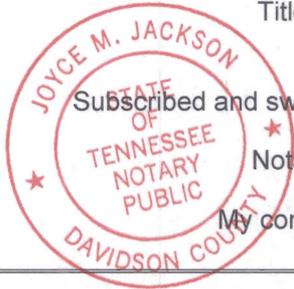
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Agriculture on 06/27/2011, and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: June 27, 2011

Signature: *Julius T. Johnson*

Name of Officer: Julius T. Johnson

Title of Officer: Commissioner



Subscribed and sworn to before me on: June 27, 2011

Notary Public Signature: *Joyce M. Jackson*

My commission expires on: 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*

Robert E. Cooper, Jr.  
Attorney General and Reporter

6-29-11

Date

**Department of State Use Only**

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Filed with the Department of State on: 7/12/11

Effective on: 10/29/11

*Tre Hargett*  
Tre Hargett  
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:

Horse sellers would directly benefit from the proposed rule, as it will allow them to use cheaper and more varied means of identifying their horses.

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

This is impossible to calculate, as TDA doesn't know how many horse sellers there are in Tennessee or how many horse sellers are "small businesses" under T.C.A. § 4-5-102.

- (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 are no reporting, recordkeeping and other administrative costs required for compliance with the proposed rules.

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

Sellers of horses at livestock markets will have cheaper and more varied means of identifying their horses.

- (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 rule. The proposed rule would not impose any burdens that aren't already imposed under the existing rules.

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

Federal rules and the rules of every state typically require that horses bear official identification and proof of a negative result on an official EIA test before being moved or commingled with other horses. The forms of official identification allowed vary by state.

- (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.

If small businesses were exempted from the proposed rule, they would not be able to use the cheaper and more varied forms of identification made available by the proposed rule.

## 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)

The proposed rules would have no impact on 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;

The proposed rule will allow horse sellers at Tennessee livestock markets to use cheaper and more varied means of identifying their horses.

- (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 such rule 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 rule will most directly affect horse sellers at Tennessee livestock markets. Such persons urge adoption of the proposed rule, as it will allow them to use cheaper and more varied means of identifying their horses.

- (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 that directly relate to the proposed rule.

- (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 fiscal impact on the department will be minimal.

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

Charles W. Hatcher, DVM  
State Veterinarian

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

Charles W. Hatcher, DVM  
State Veterinarian

- (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

Charles W. Hatcher, DVM  
Tennessee Department of Agriculture  
Division of Regulatory Services – Animal Health  
440 Hogan Road  
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF AGRICULTURE  
DIVISION OF REGULATORY SERVICES**

**CHAPTER 0080-02-10  
REGULATIONS CONCERNING HORSES AND OTHER EQUIDAE**

**TABLE OF CONTENTS**

0080-02-10-.01	Equine Infectious Anemia Test Requirements for Tennessee Horses	0080-02-10-.04	Other Required Testing
0080-02-10-.02	Testing of Stabled Horses	0080-02-10-.05	Reserved
0080-02-10-.03	Testing of Other Assembled Horses	0080-02-10-.06	Laboratories Conducting Tests for Equine Infectious Anemia

**0080-02-10-.01 EQUINE INFECTIOUS ANEMIA — REQUIREMENTS FOR CHANGE OF OWNERSHIP.**

- (1) Non-Livestock Market Sales — Persons assembling for sale, offering for sale, or selling horses or other Equidae at sales other than livestock markets, whether for one's own account or for the account of another person, shall have proof that each individual animal tested negative on an official test for Equine Infectious Anemia conducted within twelve (12) months prior to sale.
- (2) Livestock Markets — Persons assembling for sale, offering for sale, or selling horses or other Equidae at livestock markets, whether for one's own account or for the account of another person, shall:
  - (a) Have proof that each individual animal tested negative on an official test for Equine Infectious Anemia conducted within twelve (12) months prior to sale. Such horses or other Equidae shall be identified by a legible, unique tattoo or brand; a microchip; a valid equine passport; an EIA paper with digital photos of the animal (including the animal's entire left and right sides and front view) as part of the document; a mane tag provided by the Tennessee Department of Agriculture; a valid, official certificate of veterinary inspection; or other approved identification listed on the department's website. Tennessee licensed livestock markets hosting all-registered Equine sales may use breed registry papers as long as the breed registry papers match the official EIA negative test chart; or
  - (b) Have blood collected on-site for EIA testing by a Tennessee-licensed and USDA-accredited veterinarian prior to the sale.
- (3) Foals less than six (6) months of age in the company of their EIA-negative dams are not subject to the rules above.

**Authority:** T.C.A. §§4-3-203 and 44-2-102. **Administrative History:** Original rule filed May 15, 1977; effective June 14, 1977. Repeal by Public Chapter 261; effective July 1, 1983. New rule filed December 15, 1989; effective January 29, 1990. Amendment filed February 28, 2002; effective June 28, 2002. Amendment filed April 23, 2010; effective September 28, 2010.

**0080-02-10-.02 TESTING OF STABLED HORSES.**

- (1) All horses or other Equidae, except foals less than six (6) months of age in the company of their EIA-negative dam, which have been assembled by more than one owner at boarding, breeding or training stables or pastures, shall be accompanied by proof that each individual animal has tested negative on an official test for Equine Infectious Anemia

that was conducted within the preceding twelve (12) months.

- (2) The owner or manager of said premises shall be responsible for maintaining proof that each individual animal on the premises has tested negative on an official test for Equine Infectious Anemia that was conducted within the preceding twelve (12) months, and shall make these records available for inspection by all officers or inspectors charged with the enforcement of this section.
- (3) EIA-positive horses or horses that have not been tested for EIA within the preceding twelve (12) months may be stabled at an approved quarantined premises, provided the state veterinarian has issued a written permit for this purpose and the conditions of the quarantine are met and maintained.

**Authority:** T.C.A. §§4-3-203 and 44-2-102. **Administrative History:** Original rule filed May 15, 1977; effective June 14, 1977. Repeal by Public Chapter 261; effective July 1, 1983. New rule filed December 15, 1989; effective January 29, 1990. Amendment filed April 23, 2010; effective September 28, 2010.

#### **0080-02-10-.03 TESTING OF OTHER ASSEMBLED HORSES.**

- (1) All horses or other Equidae, except foals less than six (6) months of age in the company of their EIA-negative dam, which participate in any horse show, competition or other assembly, except approved livestock market sales where such Equidae are offered for sale, shall be accompanied by evidence that each individual animal has tested negative on an official test for Equine Infectious Anemia that was conducted within the preceding twelve (12) months.
- (2) The manager of each assembly or event or his agent shall be responsible for ensuring that each animal he enters, issues a permit for, or has control of, is accompanied by proof that each individual animal has tested negative on an official test for Equine Infectious Anemia that was conducted within the preceding twelve (12) months, and shall not allow animals without such proof to participate in the event, or to congregate with other Equidae. The owner of each animal or his agent shall also be responsible for meeting these requirements.

**Authority:** T.C.A. §§4-3-203 and 44-2-102. **Administrative History:** Original rule filed May 15, 1977; effective June 14, 1977. Repeal by Public Chapter 261; effective July 1, 1983. New rule filed December 15, 1989; effective January 29, 1990. Amendment filed April 23, 2010; effective September 28, 2010.

#### **0080-02-10-.04 OTHER REQUIRED TESTING.**

- (1) When a horse or other member of the Equidae family tests positive on an official confirmatory test for Equine Infectious Anemia, the following Equidae shall be tested for Equine Infectious Anemia within thirty (30) days of the time the infected animal was diagnosed as being EIA-positive:
  - (a) Equidae located on the premises where the positive animal is stabled or pastured.
  - (b) Equidae located adjacent to the infected premises or within two hundred (200) yards.
  - (c) Equidae exposed to the infected animal within the previous six (6) months in the manner described in (a) and (b) above.
  - (d) Equidae exposed to the infected animal within any time period in the manner described in (a) and (b) above, as ordered by the state veterinarian.

- (2) The owner, or his agent, of any animal that has tested positive on an official test, or that has been exposed to a positive animal, shall present such animal to the state veterinarian or his representative and render such assistance as may be required to enable the state veterinarian or his representative to identify such animal(s) or conduct any required tests.

**Authority:** T.C.A. §§4-3-203 and 44-2-102. **Administrative History:** Original rule filed May 15, 1977; effective June 14, 1977. Repeal by Public Chapter 261; effective July 1, 1983. New rule filed December 15, 1989; effective January 29, 1990. Amendment filed April 23, 2010; effective September 28, 2010.

**0080-02-10-.05 RESERVED.**

**0080-02-10-.06 LABORATORIES CONDUCTING TESTS FOR EQUINE INFECTIOUS ANEMIA.**

- (1) Laboratories conducting tests for Equine Infectious Anemia in Tennessee must be certified as required by the provisions of 9 C.F.R. 75.4 and approved by the Commissioner of the Department of Agriculture or his designated representative.

**Authority:** T.C.A. §§4-3-203 and 44-2-102. **Administrative History:** Original rule filed February 28, 2002; effective June 28, 2002. Amendment filed April 23, 2010; effective September 28, 2010.