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For Department of State Use Only

Sequence Number: 09-01-09
Rule ID(s): 4383
File Date (effective date): 9/2/09
End Effective Date: 3/1/10

Emergency Rule Filing Form

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

Agency/Board/Commission:	Department of Agriculture
Division:	Division of Regulatory Services
Contact Person:	Keith Hodges
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Rule Type :

Emergency 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 swine identification and testing requirements under Chapter 0080-02-01. 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 swine and other domestic and wild mammals in Tennessee from recent disease outbreaks in swine on hunting preserves, and in swine supplied to hunting preserves, in several counties on the Cumberland Plateau. Given the effects of disease and the ease with which it can be transmitted if not contained, 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/Rule Title per row)

Chapter Number	Chapter Title
0080-02-01	Health Requirements for Admission and Transportation of Livestock and Poultry
Rule Number	Rule Title
0080-02-01-.07	Swine

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

Amendments

Rule 0080-02-01-.07 Swine is amended by deleting the language of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

- (1) Commercial Production Swine
 - (a) Breeding and Feeder Swine
 - 1. Breeding and feeder swine transported into or through the state of Tennessee shall be individually identified to the farm of origin by an official coded metal ear tag or other official means as set forth in 9 C.F.R. § 71; and
 - 2. Accompanied by an official certificate of veterinary inspection.
 - (b) Additional Requirements for Breeding Swine
 - 1. Brucellosis
 - (i) Breeding Swine transported into or through the state of Tennessee shall be accompanied by evidence that such swine tested negative on an official test for Brucellosis that was conducted not more than thirty (30) days prior to the date of entering the state; or
 - (ii) Shall have originated directly from a Validated Brucellosis-Free Herd and have a certificate of veterinary inspection listing the herd validation number; or
 - (iii) Shall have originated directly from a Validated Brucellosis-Free State.
 - 2. Pseudorabies
 - (i) Breeding Swine transported into or through the state of Tennessee shall:
 - (I) Be accompanied by evidence that such swine tested negative on an official test for Pseudorabies that was conducted not more than thirty (30) days prior to entry, and have evidence of origin from a herd that was not known to be infected with Pseudorabies during the twelve (12) months immediately preceding the date the breeding swine enters the state; or
 - (II) Have originated directly from a Qualified Pseudorabies-Negative Herd and have a certificate of veterinary inspection identifying such herd; or
 - (III) Have originated directly from a herd in a Pseudorabies Stage IV or Stage V State.
 - 3. Post-Entry Testing for Brucellosis and Pseudorabies

- (i) Breeding swine are subject to surveillance testing for Brucellosis and Pseudorabies within sixty (60) days after entering the state, at the discretion of the state veterinarian.
 - (c) Additional Requirements for Feeder Swine
 - 1. Feeder swine imported into Tennessee shall be identified in accordance with 9 C.F.R. § 71.19.
 - 2. Pseudorabies
 - (i) Feeder swine transported into or through the state of Tennessee shall have:
 - (I) Tested negative for Pseudorabies not more than thirty (30) days prior to entering the state; or
 - (II) Originated from a Pseudorabies-Monitored Feeder Pig Herd; or
 - (III) Originated from a Qualified Pseudorabies-Negative Herd; or
 - (IV) Originated from a Pseudorabies Stage III, IV, or V Herd.
 - (d) Commercial Production Swine for Exhibition – Import requirements for commercial production swine that have been brought into Tennessee for exhibition purposes are the same as those for breeding swine, except that:
 - 1. Barrows are exempt from Brucellosis testing.
 - 2. Swine that have been entered in events where all swine on the premises will be consigned to slaughter upon leaving the event are exempt from Brucellosis and Pseudorabies testing.
- (2) Slaughter Swine
- (a) Slaughter swine transported into or through the state of Tennessee shall be accompanied by a transportation document, except that this requirement shall not apply to such swine moved directly from the farm of origin by the producer or his agent.
 - (b) No slaughter swine shall be imported from any area where swine are under a state or federal quarantine except by the permission of the Tennessee state veterinarian.
- (3) Transitional Production Swine
- (a) Prior to entering the state, Transitional Production Swine shall:
 - 1. Have an entry permit from the Tennessee state veterinarian's office;
 - 2. Be accompanied by an official certificate of veterinary inspection;
 - 3. Bear official, individual identification as set forth in 9 C.F.R. § 71; and
 - (i) Have evidence of negative Pseudorabies and Brucellosis tests taken within thirty (30) days prior to entering the state; or
 - (ii) Have originated from a Validated Brucellosis-Free and Qualified Pseudorabies-Negative herd that has maintained such statuses through testing;

- (b) Upon order of the state veterinarian, transitional production swine shall be quarantined at the swine's destination and retested within thirty to sixty (30-60) days of entering the state.
- (4) Sporting Swine
- (a) Except by permission of the state veterinarian, prior to entering the state, Sporting Swine shall:
 1. Have an entry permit from the Tennessee state veterinarian's office;
 2. Be accompanied by an official certificate of veterinary inspection;
 3. Bear official, individual identification as set forth in 9 C.F.R. § 71; and
 - (i) Have evidence of negative Pseudorabies and Brucellosis tests taken within thirty (30) days prior to entering the state; or
 - (ii) Have originated from a Validated Brucellosis-Free and Qualified Pseudorabies-Negative herd that has maintained such statuses through testing;
 - (b) Upon order of the state veterinarian, sporting swine shall be quarantined at the swine's destination and retested within thirty to sixty (30-60) days of entering the state.
- (5) Pet Swine
- (a) Except by permission of the state veterinarian, prior to entering the state, Pet Swine shall:
 1. Have an entry permit from the Tennessee state veterinarian's office;
 2. Be accompanied by an official certificate of veterinary inspection;
 3. Bear official, individual identification as set forth in 9 C.F.R. § 71; and
 - (i) Have evidence of negative Pseudorabies and Brucellosis tests taken within thirty (30) days prior to entering the state; or
 - (ii) Have originated from a Validated Brucellosis-Free and Qualified Pseudorabies-Negative herd that has maintained such statuses through testing;
 - (b) Upon order of the state veterinarian, pet swine shall be quarantined at the swine's destination and retested within thirty to sixty (30-60) days of entering the state.
- (6) Feral or Wild Swine - No feral or wild swine are allowed to enter the state of Tennessee.
- (7) General Disease Requirements - Except by permission of the Tennessee state veterinarian, no swine shall be imported from any state where foreign swine diseases are known to exist, or where any portion of a state of origin is under state or federal quarantine for any disease.

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 rule, lawfully promulgated and adopted.

Date: August 24, 2009

Signature: _____

Name of Officer: Terry J. Oliver

Title of Officer: Deputy Commissioner



Subscribed and sworn to before me on: August 24, 2009

Notary Public Signature: _____

Joyce M. Jackson

My commission expires on: September 19, 2009

All emergency 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

9-1-09

Date

Department of State Use Only

Filed with the Department of State on: _____

9/2/09

Effective for: _____

180

*days

Effective through: _____

3/1/10

* Temporary rules may be effective for up to 180 days from the date of filing.

Tre Hargett by [Signature]

Tre Hargett
Secretary of State

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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 Chapter 0080-2-1 would clarify the animal identification and testing requirements of the existing import rules, which appear to allow swine to be identified by unofficial means, by not requiring a test for non-commercial production swine.

- (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 swine producers and sellers, and small auctions, including flea markets. It is unknown whether such persons or organizations would urge adoption or rejection of these amendments. As the proposed amendments merely clarify existing State regulations and provide consistency with federal regulations and guidelines, there should not be significant opposition to them.

- (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

- (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.