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**For Department of State Use Only**

Sequence Number: 09-02-09  
Rule ID(s): 7384  
File Date (effective date): 9/8/09  
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  
**Address:** P.O. Box 40627, Nashville, TN  
**Zip:** 37204  
**Phone:** (615) 837-5331  
**Email:** [keith.hodges@tn.gov](mailto:keith.hodges@tn.gov)

**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 surveillance requirements for swine under Chapter 0080-02-04. 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 animals on hunting preserves, and in animals 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)

<b>Chapter Number</b>	<b>Chapter Title</b>
0080-02-04	Removal of Identification from Cattle
<b>Rule Number</b>	<b>Rule Title</b>
0080-02-04-.01	Definitions
0080-02-04-.02	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 is amended by deleting 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) Livestock – means cattle, equine, swine, sheep, goats and poultry.
  - (b) 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.

Rule 0080-02-04-.02 General.

- (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.

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 rules, 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.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.  
Attorney General and Reporter

9-1-09

Date

**Department of State Use Only**

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2009 SEP -2 PM 3:45  
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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

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 would expand the existing rules to prohibit the removal of official identification from any livestock, including swine. In addition, the proposed amendments clarify the existing rules by eliminating unnecessary verbiage, add definitions for livestock and official identification, and limit the official identification that can be removed to sale tags and backtags only.

(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 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;

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  
440 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.