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For Department of State Use Only

Sequence Number: 09-04-09
Rule ID(s): 4386
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 surveillance requirements for swine under Chapter 0080-02-14. 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).

Chapter Number	Chapter Title
0080-02-14	Regulations for Surveillance in Swine
Rule Number	Rule Title
0080-02-14-.01	Definitions
0080-02-14-.02	General
0080-02-14-.03	Other Disease Testing
0080-02-14-.04	Private Wildlife Preserves

Chapter 0080-02-14
Regulations for Pseudorabies Surveillance of Swine

Amendments

Chapter 0080-02-14 is amended by deleting the chapter in its entirety and substituting instead the following language so that, as amended, the chapter shall read:

Rule 0080-02-14-.01 Definitions.

- (1) For purposes of these rules, the following definitions shall apply:
 - (a) Private Wildlife Preserve - A privately owned or lease controlled tract of land on which a person may hunt captive wildlife originating from a legal source.

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

Rule 0080-02-14-.02 General.

- (1) All swine located in Tennessee are subject to being monitored for Pseudorabies in accordance with the National Pseudorabies Program Standards.
- (2) Upon notice from the state veterinarian that a herd has been selected as a representative herd for testing, the owner of the herd shall have ninety (90) days to have his herd monitored for Pseudorabies at the level established by the National Pseudorabies Program Standards.
- (3) The number of swine tested each year shall be determined by the state veterinarian in accordance with the National Pseudorabies Program Standards, but in no case shall it be greater than twenty-five percent (25%) of the breeding swine population.

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

Rule 0080-02-14-.03 Other Disease Testing - Swine located in Tennessee are subject to surveillance testing for Brucellosis, Pseudorabies, or other diseases, as ordered by the Tennessee state veterinarian.

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

Rule 0080-02-14-.04 Private Wildlife Preserves.

- (1) Swine acquired for use on a private wildlife preserve, and breeding swine that are acquired by an owner or operator of a private wildlife preserve and whose offspring are intended for use on a private wildlife preserve, shall:
 - (a) Bear official, individual identification as set forth in 9 C.F.R. § 71; and
 1. Have evidence of negative Pseudorabies and Brucellosis tests taken within thirty (30) days prior to changing ownership; or
 2. 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, be quarantined at the swine's destination and retested within thirty to sixty (30-60) days of changing ownership.
- (2) Swine released on a private wildlife preserve shall:
 - (a) Bear official, individual identification as set forth in 9 C.F.R. § 71; and
 - (b) Have evidence of negative Pseudorabies and Brucellosis tests taken within twelve (12) months prior to release.
- (3) Owners or operators of private wildlife preserves shall record, on forms provided by the commissioner, the official identification numbers of all swine released on such preserve and the corresponding date that each individual swine was released. Such records are to be kept for a minimum of three (3) years and be available for inspection at any time by agents of the Department of Agriculture.

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)

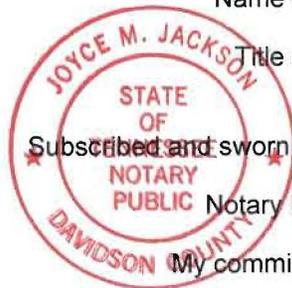
I certify that this is an accurate and complete copy of emergency rules, lawfully promulgated and adopted.

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: _____

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

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2009 SEP - 2 PM 3: 28
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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 by Mr. Scott, ASK

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 0080-02-14 would allow surveillance testing, for Brucellosis and other diseases in addition to Pseudorabies, of all swine in Tennessee. New rules have been proposed that would impose testing requirements on swine acquired for use, intended for use, or released on private wildlife preserves.

- (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 owners and operators of private hunting preserves and persons selling swine in 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
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.