

OFFICIAL MINUTES OF THE 409th COMMISSION MEETING
Texas Animal Health Commission
June 29, 2021

Item 1 – Welcome and Call to order by Chairman Locke

The Texas Animal Health Commission (TAHC) Commissioners met in person and via conference call, on Tuesday, June 29, 2021. Chairman Coleman Locke began the meeting at 8:31AM. The Pledge of Allegiance was recited.

Item 2 – Roll Call for Commission Members

The Chairman called the roll for the commission members. The following members participated via teleconference: Jim Eggleston. The following members attended in person: Jimmie Ruth Evans, Melanie Johnson, Ken Jordan, Barrett Klein, Wendee Langdon, Keith Staggs, Michael Vickers, Leo Vermedahl, and Chairman Coleman Locke. No members were absent.

Item 3 – Roll Call for Public Participants Providing Public Comment

Due to Governor Greg Abbott’s March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor’s March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, this meeting of the Texas Animal Health Commission was held by teleconference as authorized under Texas Government Code section 551.125. The Chairman asked that all attendees microphones be muted until such time as public comment is requested or the individual is called upon to speak. Also, because this meeting was held by live audio and teleconference, all individuals were asked to identify themselves by first and last name, and indicate if they represented themselves or an organization before speaking. Any individual who requested to speak on a specific agenda item or during the public comment period was instructed to press *3 to “raise their hand” signifying they wished to speak. At that time, they would be unmuted one at a time and be provided with their opportunity to speak and once finished placed on mute again. Once done speaking, participants were asked to press *3 to “lower their hand”.

There were no participants identified for public comment.

Item 4 – Approval of the minutes of the 408th Meeting

An opportunity for public comment was offered and instructions for unmuting lines and for the speaker to identify themselves was detailed. There was no public comment and no discussion concerning the minutes of the 408th Commission meeting.

A motion to approve the minutes of the 408th Commission meeting held on January 5, 2021, was made by Commissioner Jordan and seconded by Commissioner Leathers. The motion carried.

Item 5 – Report of the Executive Director and Approval of Waiver Requests

Dr. Schwartz presented the following:

• **AGENCY OPERATIONS & AFFAIRS**

- On March 10, 2021 TAHC returned to normal operations with offices open to the public and fully staffed. Field operations have continued uninterrupted throughout the SARS-CoV-2 (COVID-19) Pandemic.

- Key outcomes of the 87th Legislative Session
 - Requested base budget was fully funded.
 - All five requested exceptional items were fully funded.
 - House Bill 1958 requires export-import facilities to notify the TAHC when an animal is refused export out of Texas or import into another country.
 - Steven Luna will provide more details on the budget, and Julia Shelburne will cover other bills affecting the agency.
- Texas UHF Back Tag Project is nearing completion, with project report due in September.
- Dairy Calf Interstate Movement Pilot is going well.
- Multi-State Cattle Herd Agreement: The TAHC entered into an agreement with a large dairy operation and the states of New Mexico, Arizona, South Dakota, and Minnesota establishing an alternate state entry process that facilitates generation of more accurate Certificates of Veterinary Inspection.

- **SUNSET UPDATE**
 - On June 16, 2021 Governor Abbott signed the agency's Sunset Bill, Senate Bill 705, which continues the Texas Animal Health Commission for another 12 years.
 - Overall, the TAHC fared well in the Sunset review process.
 - The Texas State-Federal Laboratory will be closed and regulatory testing transferred to TVMDL by August 31, 2021.
 - Additional details on the Sunset Bill will be provided by Julia Shelburne.

- **DISEASE CONSIDERATIONS**
 - Cattle Fever Ticks, Rio Bravo Buffer Zone: TAHC worked with APHIS, SENASICA, CNOG, Coahuila, and Tamaulipas to plan two cooperatively funded fever tick eradication pilot projects, one in Tamaulipas and one in Coahuila. Funding for these pilot projects was approved at the September 22, 2020 commission meeting. The projects are on hold awaiting approval by the Office of the Governor (OOG) to transfer funds to Mexico. The OOG is awaiting a ruling by the US Department of State on the question of this agreement constituting an international treaty.
 - Cattle Fever Ticks, Zapata game fence: USDA has begun construction of a two-mile section of fence near Zapata that connects with existing game fencing to create a barrier to the movement of tick infested white-tailed deer from the permanent quarantine zone to the free area. The TAHC agreed to maintain the fence for a period of five years.
 - Cattle Fever Ticks, Cameron County and Willacy County game fence: The TAHC obtained funding to construct a total of approximately 10 miles of game fencing in four key locations in these two counties to prevent movement and continued reintroduction of ticks by nilgai antelope and white-tailed deer. An Environmental Assessment was conducted, and is out for public comment. Pending any changes warranted in response to public comment, TAHC anticipates putting this fencing project out for bids this summer.
 - Pullorum-Typhoid (*Salmonella pullorum*, *Salmonella typhoid*) Testing (PT testing): The Texas commercial poultry industry requested the TAHC conduct PT testing where required under state

rule and the National Poultry Improvement Plan (NPIP). The Official State Agency for Texas under the NPIP is TVMDL. PT testing could be performed by TAHC under a Memorandum of Understanding with the Texas Poultry Improvement Board, the Teas Poultry Movement Association and USDA/APHIS/VS.

- Additional disease information will be provided by Dr. Rollo.

- **NATIONAL UPDATE**

- USDA's policy on the discontinuation of metal tags and requirement for RFIDs made in 2019 was withdrawn. A new proposal was published in the federal register. The public comment period closed October 5, 2020. USDA announced it will go through the full rulemaking process. No update on when this process will begin.
- Agency personnel are working to distribute RFIDs provided by USDA to veterinarians and producers. An ample supply of tags has been received. By providing and distributing these RFIDs, the USDA and the TAHC hope to encourage use of this method to identify livestock and, as a result, improve animal disease traceability.

- **WAIVER REQUESTS** - From January 5, 2021 to June 29, 2021, there were 21 waivers requested, 15 of which were approved.

- Leptospirosis – **Approved** – allowed the entry of swine involved in a closed, terminal research project.
- Tuberculosis – **Denied** – request to move a fallow deer from an AZAA accredited facility to a non-accredited facility was denied.
- Tuberculosis – **Denied** – original test on heifers could not be read due to weather conditions. Because 179 heifers were headed to a consignment sale, with no efficient way to permit and put under hold order all of the animals, the request was denied.
- Brucellosis – **Approved** – allowed a request to modify DSA Permit and hold order to allow an open, low risk heifer to attend livestock shows.
- Avian Influenza/PT – **Approved** – allowed entry of quail prior to required testing. PT antigen was not available in state of origin, and birds were held in quarantine until testing could be completed with negative results.
- Pullorum Typhoid – **Approved** – allowed entry of birds to be PT tested upon arrival due to availability of antigen in state of origin. Birds were held under hold order until negative test results were returned.
- Tuberculosis – **Approved** – allowed entry of heavy bred heifers to move to Texas without a TB test. Reading of test was delayed due to weather. Facilities in state of origin were not adequate for calving, and animals were put under hold order at their destination until test could be completed.
- Trichomoniasis – **Approved** – allowed pooling of two of seven samples for Trich test. Test was not for change of ownership or movement of animals. Bulls were to remain at ranch of origin and there was no history of issues at the ranch. The test chart was not to be provided to the herd owner, as this could not be an official test.

- Trichomoniasis – **Denied** – shipping issue caused samples for an official test to arrive outside of permitted window for testing. Samples older than allowed window cannot be reliably tested.
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- Leptospirosis – **Approved** – allowed the entry of swine involved in a closed, terminal research project.
- Tuberculosis – **Approved** – allowed the entry of fallow deer from Florida on a single TB test. Florida does not have a TB monitored herd status program. These fallow deer are from a closed herd that had tested a sufficient number of animals over the past 5+ years to meet or exceed monitored herd status. This was the first shipment from a consolidated herd.
- Trichomoniasis – **Approved** – allowed the retest of a bull prior to disposal due to positive test. Due to herd history, there was low confidence that the animal was positive based.
- Entry Requirements – **Approved** – animals were shipped under the impression that they could be tagged in Texas at the approved market to which they were bound. To reduce stress on the animals, they were permitted to the facility and held separately and under hold order until official ID and CVIs could be issued.
- Tuberculosis – **Approved** – allowed the entry of fallow deer from Florida on a single TB test. Florida does not have a TB monitored herd status program. These fallow deer are from a closed herd that had tested a sufficient number of animals over the past 5+ years to meet or exceed monitored herd status. This was a second shipment from consolidated herd.
- Trichomoniasis – **Approved** – allowed processing of samples that arrived to lab outside of normal window. The weather had been cool, providing some grace for the samples. There has never been a positive test result from the facility in question and the bulls were virgin bulls.
- Trichomoniasis – **Approved** – allowed the entry of bulls on an expired test. Bulls were virgin bulls and raised in feed lot conditions with only other bulls.
- Tuberculosis – **Approved** – allowed entry of fallow deer from Florida on a single TB test. Florida does not have a TB monitored herd status program. These fallow deer are from a closed herd that has tested a sufficient number of animals over the past 5+ years to meet or exceed monitored herd status. This waiver covered the third shipment from consolidated herd.
- Tuberculosis – **Approved** – allowed entry of fallow deer from Florida on a single TB test. Florida does not have a TB monitored herd status program. These fallow deer are from a closed herd that has tested a sufficient number of animals over the past 5+ years to meet or exceed monitored herd status. Final waiver of this period to cover shipments from consolidated herd.
- Trichomoniasis – **Denied** – shipping issue caused samples for official test to arrive outside of permitted window for testing. Samples older than allowed window cannot be reliably tested.
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An opportunity for public comment was offered and instructions for unmuting lines and for the speaker to identify themselves was detailed. There was no public comment. The motion to approve the waiver requests was made by Commissioner Johnson and seconded by Commissioner Staggs. The motion carried.

Item 6 – Presentation of 87th Legislative Session Update

Ms. Julia Shelburne presented an update of the 87th Legislative Session.

- TAHC's requested base budget and exceptional items were fully funded.
- Notable bills affecting TAHC included:
 - House Bill 3856 - Increases maximum administrative penalty to \$5,000
 - House Bill 1958 - Requires export-import facilities notify the TAHC when an animal is refused export out of Texas or import into another country
 - House Bill 1259 - Transfers the Rural Veterinarian Incentive Program to the TAHC
 - Senate Bill 1997 - Updates "hog cholera" to "classical swine fever" in Chapter 165, Texas Agriculture Code
 - Senate Bill 705 - Continues the TAHC for 12 years as an independent, standalone agency
- Summary of Sunset findings:
 - The Sunset Advisory Commission found that the TAHC remains necessary and recommended continuing it for 12 years as an independent, standalone agency
 - Required the TAHC to close its laboratory and designate the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) as the state's regulatory animal health lab
 - Required the TAHC update, maintain and report compliance activity, information, documentation and materials to enhance enforcement
 - Removed outdated, overly prescriptive provisions in statute to provide TAHC more flexibility to prevent, manage, and eradicate animal diseases
 - Established advisory committees by rule, updating the standard across-the-board requirements for training and grounds of removal of a board member

Item 7 – Presentation of Epidemiology Activities

Dr. Susan Rollo presented the following report:

Cattle

Tuberculosis (TB)

Status of the TB affected herds in Parmer and Lamb Counties: Two organic dairies and a feed yard (~12,000 head) completed an assessment test in April 2015, and fifteen subsequent removal tests. To date, there are sixty-eight histocompatible samples disclosed. The dairy completed the verification test in October and the quarantine was released. Annual assurance testing will be conducted for five years.

Status of the TB affected dairy in Sherman County and two associated grower operations in Dallam County that are epidemiologically linked to the positive dairy: The ~8,700 head dairy was previously tested annually 2015- 2017 with negative test results after they received exposed heifers from a bovine TB affected dairy. The fourth test in December 2018, resulted in a high response rate. Further testing led to the identification of sixty-nine animals with confirmed TB by culture after one assessment and three removal tests. Of the original sixty-nine, whole genome sequence (WGS) revealed that sixty-eight had a strain of last known linkage with cattle in central Mexico and one had an unusual strain which was forty-nine single nucleotide polymorphism (SNPs -used to measure genetic distance between isolates) from the most recent ancestor. The fourth removal test was completed in October with no additional positives. In March, a modified removal test was conducted which specifically targeted high-risk cattle in the herd. The targeted group was considered high risk due to additional epidemiology analysis conducted that considered calving dates as a potential point source introduction. The high-risk group was tested with three tests in parallel to increase the sensitivity and three positives were disclosed. In response to the further identification of positives, all high-risk cattle were removed for slaughter. A sixth test is starting soon. The total positives to

date include seventy-one on the dairy and two from associated feeder operations.

Status of TB affected beef herd in Austin County: In June 2019, a positive beef herd was disclosed from a slaughter trace back. After one assessment test, an additional positive cow was identified. WGS describes a unique strain to the US with Mexican origin. The verification test yielded negative results and the quarantine was released last fall. The herd is scheduled for an annual test in September.

Status of Sutton County beef herd investigation: Last July, a slaughter trace back was identified that originated in a beef herd in Sutton County. The twelve-year-old animal was a natural born addition in the herd. Further testing identified three positive cattle and one additional slaughter trace back (five total). The WGS describes a one SNP difference to a common ancestor of TB positives disclosed on a 2012 TB affected beef herd in Coke County. Considering how this herd may have been exposed to TB, one hypothesis is that the index 12-year-old cow may have been harboring TB for years (latency) prior to shedding. Either she was epi-linked to the 2012 beef herd through an unknown TB infected cow or her dam whose origin is unknown. Note, latent TB may harbor or lay dormant in an animal and become active later in life due to a change in immunity. In addition to testing cattle and goats on the ranch, a TB wildlife disease surveillance strategy for sampling wildlife to detect TB was developed in collaboration with USDA APHIS VS and the Center for Epidemiology and Animal Health. TB transmission to wildlife or vice versa can occur through the fecal-oral route, ingestion of contaminated food, or through the respiratory tract. The epidemiological investigation which includes identifying and tracing cattle sold within the previous five years is ongoing. In addition, the herd is operating on a test-remove plan and the herd owner has chosen to remove high risk cows including all cows on the unit were the initial positive were disclosed. The third removal test (of six estimated by modeling) is scheduled as well as testing of the Spanish goats used for pasture management. Wildlife will be tested when harvested during hunting season.

Status of new roping steer investigation: On June 30, a slaughter trace back from a California plant was traced to a Panhandle feed yard that received roping steers from a premises in Archer County. Unfortunately, the lesion DNA did not match the official ID. The WGS indicates a Mexico origin with distant relations to other Mexican-event cattle and a BCA-dairy. A second slaughter trace back from a Wisconsin slaughter plant traced back to the same feed yard. The Mexican origin steer had DNA on the official ID that matched the lesion. The investigation revealed that a Limestone County producer imported the animal in February 2019. WGS on the second animal shows origins from Chiapas. TB testing was conducted on all exposed or potentially exposed steers presently residing at the 2 premises. One gamma positive retired steer at the Limestone County premises with lesions was histocompatible and PCR positive. The WGS on the third steer shows close relationship to the Chiapas origin animal's genetics. In addition, crossing papers show both steers originated in farms that were within five miles from each other in Chiapas. Both herds were tested twice with no positives on the second test. Exposed cattle were removed to slaughter with the exception of one group that is in a separate pasture away from the facility until they go to slaughter.

Cattle Trichomoniasis: From January 2020 through December 2020, there were 339 positive bulls disclosed of 38,378 tests (0.88% test positive). To date, in 2021 there have been 139 positive bulls disclosed of 17,468 tests (0.80% test positive).

Cattle Fever Tick (CFT): The Cattle Fever Tick Eradication Program is a cooperative activity between TAHC and USDA-VS. In the Permanent Quarantine Area (PQ), the Temporary Preventive Quarantine Areas (TPQA), and additional Control Purpose Quarantine Areas (CPQA), there are 176 total infestations disclosed through April 30, 2021. Beginning with an infested property outside the TPQA in southern Cameron County discovered January 30, 2020, trace out investigations identified three additional infested premises which

then led to further discoveries. Each associated infested premises have additional trace out investigations. In all, Cameron County has five new infested premises outside the TPQA and four of the five are epi-linked. The index infested property was likely exposed from infested Nilgai antelope that were moving westward from the TPQA. In addition, Willacy had two epi-linked infestations resulting in new CPQAs (one was released in April). In Hidalgo, there are three CPQAs epi-linked to the outbreak. A fourth one with three infested premises is in Northern Hidalgo does not appear to be related to the others but genetic testing is pending. This one is also concerning due to the geographic location in northern Hidalgo where abundant nilgai are reported. Jim Wells had a CPQA at a livestock market pen that is subject to release.

Equine

Equine Infectious Anemia (EIA) and Equine Piroplasmosis (EP): Texas continues to disclose both diseases in racing quarter horses when tested for movement. Note, one premises in Refugio county was likely transmission by vectors based on the type of horses tested.

Equine Herpesvirus-1 (EHV): One equine with the neurologic form of EHV was disclosed in Parker County in March.

Avian

Infectious Laryngotracheitis (ILT): ILT was first reported on 3/30/2021 in Camp county. An additional ten broiler farms and one breeder were disclosed between March 30 to June 3, 2021 in Camp, Franklin, Wood, and Hopkins counties. Of the twelve, ten were from one company and in some of the same counties as the 2020 outbreak. Viral genomes detected in samples belong to genotype VI viruses which are not related to CEO or TCO vaccines. According to the Poultry Diagnostic and Research Laboratory at the University of Georgia, the exact origin of these viruses remains unknown. However, the lab reports that these viruses have been circulating in commercial poultry for at least 15 years. The viruses appear to belong to the same genotype as last year's outbreak. There are two explanations to this scenario, first there may have been a re-introduction of the virus or the virus was never eliminated from flocks.

Sheep and Goats

Scrapie: The flock identified in April 2016 remains under quarantine in Hartley County.

Cervids

Chronic Wasting Disease (CWD): Since July 2015, six positive captive breeder herds have been disclosed and four of those are in Medina County. One herd in Lavaca, one herd in Kimble, and three herds in Medina County were depopulated leaving one large herd in Medina that was managed on a herd plan. The herd depopulation is planned for this summer. On March 23, 2021, TAHC was notified of five positive deer within two facilities under the same ownership (Facility 1 was a certified herd and Facility 2 was a 4th year herd). On March 24, 2021, TAHC was notified of an additional positive in a third facilities in Hunt county (Facility 3 was a 4th year herd). The Hunt county sample was further confirmed by DNA that the sample originated from the deer in the Hunt facility. Trace deer were identified and during the testing phase of high-risk trace deer, two additional facilities were identified that had received trace deer since October 2020 (Facility 4 in Matagorda county was a 4th year herd and Facility 5 in Mason County was a certified herd). In June, a third facility was identified with a positive trace deer (Facility 6, was a non-HCP herd). Epidemiologically, there appears to be two outbreaks. The first one originated in the Facility 1 and Facility 2 in Uvalde county and direct trace deer tested positive in Facilities 4, 5, and 6. Considering that 15 positive deer originated from Facility and of

those eight were both obex and retropharyngeal lymph node (RLN) positive as compared to deer originating in Facility 2 which were all only RLN positive. CWD appears to be harboring in Facility 1 longer than Facility 2. Additional sampling during the final depopulation may provide additional information. In addition, two of the three trace herds were depopulated to prevent further dispersal of infectious prions on the landscape in new areas of Texas. Facility 5 test results are pending. Facility 6 was recently identified and a herd visit will be scheduled to discuss options for this herd including an evaluation of different susceptible species on the premises. This herd is also located between Fac 1 and 2 and the 2016 CWD positive herds in Medina/Uvalde areas. Geographic spread is also a concern considering the origin of CWD in Fac 1 and Fac 2 is unknown. In regards to the Hunt county facility, additional antemortem sampling of the index positive doe's cohort, disclosed four antemortem positive does based on TVMDL testing. These samples were submitted to NVSL for confirmation pending results. A herd plan will be developed in consultation with the facility owner. Trace herds have been notified and the majority of herds with trace deer have removed and tested them. Some results are still pending. In addition, there will be some breeding facilities that need herd plans to manage antemortem testing for release by an epidemiological assessment. The remaining facilities are release sites. The release sites will also operate on a herd plan that determines the number of deer to test to demonstrate disease freedom based on deer density and when the trace deer entered the release site. Exotic owners continue to submit CWD samples.

Rabbits

RHDV2:

One case in Tom Green County was disclosed in March 2021.

One Health Investigations

SARS-CoV-2: To date, eighty Texas animals have tested positive for SARS-CoV-2 virus including thirty-seven canines, thirty-four felines, six tigers, one cougar, and two lions.

Item 8 – Presentation of Field Animal Health Programs. Disease Traceability, and Emergency Management Activities

Dr. Angela Lackie presented the following update:

- Staffing - field positions are now being filled because funding has become available
 - Of 142 total positions, 119.5 are filled, five are posted, and 10.5 are vacant
- 2021 Training Schedule
 - Administrative Assistant training was completed in April
 - Management training was scheduled for July 20-22nd
 - Field inspectors is projected for the fall 2021
 - Eleven staff will attend leadership development courses at LBJ School in July & August
- For the first quarter of 2021 there were:
 - Forty-two event inspections
 - 297 feed yard/ calf ranch inspections
 - 1342 livestock market inspections
 - 3158 livestock shipments inspections

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- 543 fowl inspections
- 146 Swine surveys, 115 head tested
- Swine first point testing: 3644 head sold, 67% tested
- 283 total Slaughter inspections
- 234 Trichomoniasis inspections
- 72 waste feeder inspections
- Authorized Personnel: 2318 Accredited Authorized Vets in Texas
 - 140 CWD Antemortem Certified
 - 1000 CWD Postmortem Certified
 - 853 Trich Certified
- Emergency Management Updates
 - Internal Training/Preparedness Staff Activities:
 - Participated in two drills involving the AgView Program and tracking swine movements with Colorado, Kansas and Oklahoma.
 - Conducted two Collector/ICS Response field trainings to train fifteen new field responders.
 - Delivered a virtual ICS 300 course to TAHC field staff in three locations.
 - Hosted two Natural Disaster working group meetings with TAHC response partners.
 - Drafted the FMD Vaccination Plan for Texas.
 - Outreach Work
 - Appointed Dr. Carrie Koonce as the project leader for “Producer Education and Plan Implementation of Secure Food Supply Plans in Texas”.
 - Delivered presentations at the Texas Pork Industry Conference in June: “How a Foreign Disease Will Affect Us All” and “The US Swine Health Improvement Program”
 - Federal Level Participation
 - Joined the planning team for the next virtual Secure Beef Supply Regional Tabletop Exercise in August.
 - Participated in the IIAD FMD Vaccination Tabletop for the beef and swine-focused days with other top species producer states
- ADT updates for the first quarter of 2021
 - 34,267 active premise identification numbers
 - 64,551 location identification numbers
 - 238 scrapie flock identification
- Upcoming
 - Field inspector training(s)
 - Develop the Regional Director Standard Operating Procedures
 - Update of the Region Office Standard Operating Procedures
 - Three-day Foot and Mouth Disease exercise in November

Item 9 – Presentation of Veterinary Services Programs Update

Mr. John Picanso, Director of the Cattle Fever Tick Eradication Program (CFTEP) and Dr. Mike Pruitt, District 4 Director, gave USDA Updates:

Mr. Picanso thanked TAHC staff for partnership in Fever Tick work, and related that he began his position in January. He summarized data related to fever tick work, including that there are now 40 infested premises to date, compared to 74 in 2020. He also shared that due to low river levels, USDA CFTEP staff have been patrolling the river heavily and have apprehended strays that have all been moderately to heavily infested. Mr. Picanso shared information about the Carrizo Cane project as a method of managing ticks. “Topping” the cane, meaning cutting the cane, and invasive species, to a height of three feet, encourages a particular wasp to lay its eggs in the cane which stunts or kills the plant. As of the date of the meeting, sixty-nine miles of cane had been topped. Additionally, he gave an update on the Zapata High Fence Project, which is intended to keep white tail deer on the systematic side of the fever tick zone. He estimated the fence would be completed in two months. Finally, he shared that the findings of four assessments on the CFTEP resulted in 120 tasks intended to push forward and gain progress with the fever tick program.

Dr. Mike Pruitt announced that he has been named the USDA District 4 Director, and looks forward to working with TAHC in that role. Dr. Megan Schmid will be the interim Area Veterinarian in Charge (AVIC) for the next four to six months. Dr. Pruitt praised TAHC staff on work done to address the Tuberculosis cases. He appreciates our work to provide industry friendly approaches to address the problem. He shared that USDA offices are still not open, but plan to be open by September. Currently, the remodel started in 2020 should be completed by that time. Finally, Dr. Pruitt shared that there have been over forty Foreign Animal Disease (FAD) investigations in the last six months, all investigations returned negative results for any FAD.

Item 10 – Audit Sub-committee Report

Commissioner Joe Leathers provided a report on the Audit Sub-Committee meeting, during which a report on the follow up of Prior Internal Audit Recommendations was reviewed. The agency was found to have implemented all recommendations from previous internal audits. He reported that the internal auditors have submitted the Fiscal Year (FY) 2020 Annual Audit Report, which is a summary of the audits conducted in FY 2020, to the appropriate State Auditor’s Office (SAO) and the Legislative Budget Board (LBB).

An opportunity for public comment was offered and instructions for unmuting lines and for the speaker to identify themselves was detailed. There was no public comment. The motion to approve the Audit Sub-committee report was made by Commissioner Joran and seconded by Commissioner Langdon. The motion carried.

Item 11 – Fiscal Year 2021 Budget Status Report

Mr. Steven Luna, Director of Finance, presented the FY 2021 Budget Status Report:

- Total revenue budgeted for FY 2021 is \$18,088,477.

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- The mandatory 5% Budget reduction in the amount of \$687,186 has been set aside and is **not** factored into the available total revenue budget
- Included in the available total revenue budget is UB from FY 2020 in the amount of \$885,282
 - These funds have been moved to the appropriate category: GR, Capital, Federal Funds, or Appropriated Receipts
- Included in the available total revenue budget is HB 2 funds that are effective for a 2-year period beginning June 18, 2021.
- Budgeted Expenditures - \$15,192,891. This figure includes known / anticipated expenditures.
 - It is anticipated that all HB 2 funds will remain unspent/unobligated in FY 2021
- There is available budget in the amount of \$1,208,076.
 - When these figures were calculated, there were approximately 100 days remaining in FY 2021.
- The TAHC is anticipating that we will UB Federal Funds from FY 2021 to FY 2022 in the amount of approximately \$739,291.
- Federal Funds are currently projected to total \$3,616,626, with \$2,785,716 in spendable, with an amount of \$830,910 applied as benefit offsets that will be returned to the state.
 - Of the spendable amount, \$364,945 was UB'd from FY 2020
 - Received YTD funds are \$2,691,589 (includes FY 2020 UB funds)
 - In the event of additional or new agreements, they will be added to this amount as the agreements are finalized.
- Fee Revenue is used on Field vehicle expenses such as Fuel, Maintenance & Repairs, Parts, Insurance, and Leases.
 - Budgeted fee revenue is \$594,813
 - Received YTD is \$504,278
 - Received - \$429,465
 - UB'd from FY 2020 - \$74,813 (*Not reflected in the chart below*)
- **Budgetary Items:**
 - The TAHC does **not** have the Unexpended Balance (UB) Authority to move unspent General Revenue appropriations from FY 2021 to FY 2022.
 - The TAHC **is** authorized to UB certain Federal Funds from FY 2021 to FY 2022, under the 86th & 87th Legislative Regular Session, GAA Article IX, Section 13.09; and anticipates doing so.
 - HB 2 funds are FY 2021 funds but the funds **are** available “for the two-year period beginning on the effective date of this Act”, which is June 18, 2021.
 - The TAHC Financial Services requests approval for a budgetary transfer for the FY 2021 budget for the following:
 - Transfer of \$34,981.19 from Field to Capital Fleet Acquisition
 - It is uncertain if there may be any further budgetary transfers needed across budget groups for the remainder of FY 2021. In the event that there are budgetary transfers needed, they will be brought before the Commission for approval at the next Commission meeting

An opportunity for public comment was offered and instructions for unmuting lines and for the speaker to identify themselves was detailed. There was no public comment concerning the FY 2021 Budget Status Report presented. The motion to approve the report was made by Commissioner Vickers and seconded by Commissioner Staggs. The motion carried.

Item 12 – Consideration of and Possible Action on Fiscal Year 2022 Budget

Mr. Steven Luna, Director of Finance, presented the FY 2022 Budget:

- Total revenue budgeted for FY 2022 is \$17,487,147.
 - This does **not** factor in the UB of approximately \$739,291 in Federal Funds moved from FY 2021 to FY 2022
 - Included in the available total revenue budget is \$1,687,509 in HB 2 funds that are effective for a 2-year period. The assumption is that none of the funds will be expended in FY 2021.
 - SB 1 and HB 2 have been signed by the governor. HB 2 is effective June 18, 2021 and SB 1 is effective September 1, 2021.
 - Budgeted Expenditures - \$17,487,147.
 - Anticipate expending 100% of budgeted funds
 - In the event that 100% is not expended, the TAHC does have UB authority from FY 2022 to FY 2023
 - Any unspent HB 2 funds can be moved to FY 2023
- Federal Funds are currently projected to total \$2,853,654, with \$2,107,127 in spendable, with an amount of \$746,527 applied as benefit offsets that will be returned to the state.
 - This does **not** factor in the UB of approximately \$739,291 in Federal Funds moved from FY 2021 to FY 2022.
 - In the event of additional or new agreements, they will be added to this amount as the agreements are finalized.
- Fee Revenue is used on Field vehicle expenses such as Fuel, Maintenance & Repairs, Parts, Insurance, and Leases.
 - Budgeted fee revenue is \$585,102
 - Received YTD is \$0
- **Budgetary Items:**
 - The TAHC does have the Unexpended Balance (UB) Authority to move unspent General Revenue appropriations from FY 2022 to FY 2023.
 - HB 2 funds are FY 2021 funds but the funds **are** available “for the two-year period beginning on the effective date of this Act” which is June 18, 2021.
 - The TAHC Financial Services requests approval for a budgetary transfer for the FY 2022 budget for the following:
 - Transfer of not-to-exceed \$70,000 from Field Operations Strategy to Promote Compliance Strategy
 - It is uncertain if there may be any further budgetary transfers needed across budget groups for the remainder of FY 2022. In the event that there are budgetary transfers needed, they will be brought before the Commission for approval at the next Commission meeting.

There was no public comment concerning the FY 2022 Budget presented. The motion to approve the report was made by Commissioner Vickers and seconded by Commissioner Oates. The motion carried.

Item 13 – Consideration of and Possible Action on Agency Contracts and Purchases

Ms. Myra Sines presented contracts and purchases for the consideration of the Commissioners, which included contracts, purchases, and leases.

An opportunity for public comment was offered and instructions for unmuting lines and for the speaker to identify themselves was detailed. There was no public comment concerning the contracts, purchases and leases presented. The motion to approve the contracts, purchases, and leases as presented was made by Commissioner Leathers and seconded by Commissioner Vickers. The motion carried.

Item 15 – Consideration of and Possible Action on Orders Related to Commission Rule Violations

Ms. Mary Luedeker presented sixteen orders related to Commission rule violations for the consideration of the commission. The motion to adopt the orders was made by Commissioner Jordan and seconded by Commissioner Oates. The motion passed.

Item 16 – Consideration of and Possible Action on Regulation Proposed Rules

Mrs. Mary Luedeker and Mrs. Julia Shelburne each discussed the following Regulation Proposals: Each Regulation Proposal was reviewed and voted on individually.

- a) Chapter 33, Fees
 - b) Chapter 40, Chronic Wasting Disease
 - c) Chapter 45, Reportable Diseases (Proposed – Reportable and Actionable Diseases)
 - d) Chapter 46, Export-Import Facilities
 - e) Chapter 53, Market Regulation
 - f) Chapter 55, Swine
 - g) Chapter 59, General Practices and Procedures, 59.5 Open Records (Proposed – Public Information Act Requests)
- a) The Texas Animal Health Commission (commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 33, titled “Fees”. Specifically, amendments are proposed to §33.1, concerning Definitions, §33.2, concerning Certificate of Veterinary Inspection, §33.3, concerning Inspection of Foreign Cattle Fee and §33.4, concerning Enforcement and Penalties, is proposed for addition.

The proposed amendments update terms and recognize modern technologies for obtaining Certificates of Veterinary Inspection. Grammatical and editorial changes for improved readability are proposed throughout §§33.1, 33.2 and 33.3. The new section, “Enforcement and Penalties,” is proposed as §33.4 to clarify applicable penalties for violations. The proposed amendment to §33.1 deletes an unnecessary term, “livestock market,” as the term is not otherwise used in Chapter 33. In §33.2. subsection (a), the statement nullifying and voiding certificates issued prior to 2005 is proposed for deletion because it is outdated and certificates prior to 2005 are unlikely. Subsection (a) also proposes the inclusion of exotic fowl to clarify a type of animal that may require a Certificate

of Veterinary Inspection (CVI). That subsection also adds that CVIs approved by the commission are acceptable. Subsection (b) proposes editorial changes for clarification; paper CVIs are sold in books of ten certificates to show the distinction between paper and electronic CVIs. In subsection (c), the option to obtain electronic CVIs is proposed to reflect current available technology, and the website to purchase those CVIs is provided. The proposed amendments to this section §33.3 Inspection of Foreign Cattle Fee are non-substantive grammatical and editorial changes for clarity and improved readability. For section §33.4. Enforcement and Penalties the proposed section describes the scope of violations and respective penalties as prescribed by Chapter 161 of the Texas Agriculture Code. Subsection (b) provides that administrative penalties may not exceed \$5,000 each day a violation continues or occurs.

The motion to propose amendments to Chapter 33, Fees, was made by Commissioner Leathers and seconded by Commissioner Vickers. The motion carried.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- b) The Texas Animal Health Commission proposes amendments to Title 4, Texas Administrative Code, Chapter 40 titled "Chronic Wasting Disease." Specifically, amendments are proposed to §40.1, concerning Definitions, §40.2, concerning General Requirements, §40.3, concerning Herd Status Plans for Cervidae, §40.4, concerning Entry Requirements, §40.5, concerning Surveillance and Movement Requirements for Exotic CWD Susceptible Species, §40.6, concerning CWD Movement Restriction Zones and §40.7, concerning Executive Director Declaration of a CWD Movement Restriction Zone. The Texas Animal Health Commission proposes the addition of §40.8, concerning Enforcement and Penalties.

The purpose of this chapter is to prevent and control the incidence of chronic wasting disease (CWD) in Texas by seeking to reduce the risk of interstate and intrastate transmission of CWD in susceptible cervid species. The Texas Animal Health Commission (commission) proposes amendments to each section of Chapter 40 to clarify, correct, and update information regarding CWD management. Non-substantive grammatical and editorial changes are also proposed throughout the chapter for improved readability.

Chronic wasting disease is a degenerative and fatal neurological communicable disease recognized by the veterinary profession that affects susceptible cervid species. CWD can spread through natural movements of infected animals and transportation of live infected animals or carcass parts. Specifically, prions are shed from infected animals in saliva, urine, blood, soft-antler material, feces, or from animal decomposition, which ultimately contaminates the environment in which CWD

susceptible species live. CWD has a long incubation period, so animals infected with CWD may not exhibit clinical signs of the disease for months or years after infection. The disease can be passed through contaminated environmental conditions, and may persist for a long period of time. Currently, no vaccine or treatment for CWD exists.

To mitigate the risks and spread of CWD, the commission works in coordination and collaboration with the Texas Parks and Wildlife Department (TPWD) to address CWD. The commission has jurisdiction over exotic CWD susceptible species. TPWD has jurisdiction over mule deer, white-tailed deer, and other native species. Those native species are classified as property of the state of Texas and managed as state resources. TPWD, under specific statutory authorization, allows herd owners to breed, trade, sell, and move white-tailed or mule deer that meet certain TPWD requirements.

The commission implements a herd management plan for cervid herds affected by CWD. The herd plan sets forth steps to control the spread of CWD from a CWD-positive herd, the risk of CWD in a CWD-exposed or CWD-suspect herd, or prevent the introduction of CWD into a herd. Herd plans include animal identification, regular examination for clinical signs of CWD, record keeping, and other requirements to best prevent or control CWD.

The commission also offers participation in the CWD Herd Certification Program. The Herd Certification Program is a voluntary, cooperative surveillance and certification program between the commission, United States Department of Agriculture (USDA), herd owners, and other affected parties. The purpose of the program is to promote a consistent, national approach in controlling CWD in farmed and captive cervids and preventing the interstate spread of CWD. Participating herds that meet program requirements and have no evidence of CWD advance in status each year for five years, then are certified as low risk for CWD. Certification status, in addition to compliance with the Herd Certification Program performance-based regulations and herd status, permits interstate animal movement.

In May 2019, the USDA updated the CWD Program Standards (“federal standards”). The standards were revised to clarify and update acceptable methods for complying with the legal requirements in 9 CFR Parts 55 and 81. As a participating Approved State CWD Herd Certification Program, the commission is proposing to update the Herd Certification Program rules to align with revised federal standards where applicable and federal regulations.

The proposed amendments for Containment Zone 6 and Surveillance Zones 3, 6 and 7 are in response to CWD discoveries in Lubbock, Hunt, and Uvalde counties. On March 1, 2021, CWD was confirmed and reported in a free-ranging 8.5-year-old mule deer in Lubbock County. The proposed amendment creates Containment Zone 6 and Surveillance Zone 6 in response to that confirmed case. On March 31, 2021, CWD was reported in white-tailed deer in breeding facilities in Hunt and Uvalde counties. The proposed extension to Surveillance Zone 3 is in response to the confirmed CWD cases in Uvalde County, and Surveillance Zone 7 is proposed in response to the confirmed

CWD case in Hunt County. The purpose of the restriction zones is to both increase surveillance and reduce the risk of CWD being spread from areas where it may exist.

The proposed rules amend §40.1, "Definitions," by alphabetizing the defined terms, correcting grammar for clarity and conciseness, and adding and deleting terms. The alphabetization of terms causes the numeration changes. The proposed new terms are: "Breeding Facility", "CWD-Suspect Animal", "CWD-Suspect Herd", "Enrollment Date", "Enrolled Herd", "Executive Director", "Herd Certification Program", "Herd Plan", "Herd Status", "Hold Order", "Location Identification Number (LID)", "Minimum Mortality Rate", "Official CWD Test", "Premises Identification Number (PIN)", "Quarantine", "Release Facility", "Status Date" and "TAHC Authorized Veterinarian". The terms proposed for deletion are "CWD Profile", "Suspicious Animal" and "Suspicious Herd". "Certified CWD Postmortem Sample Collector", "Chronic Wasting Disease", "Commingled, Commingling", "CWD Susceptible Species", "Herd", "Limited Contact" and "Trace Herd" propose substantive amendments to better align with 9 CFR Parts 55 and 81 and the federal standards.

The commission proposes the additions of "Breeding Facility" and "Release Facility" to improve understanding about the types of facilities in Texas. "CWD-Suspect Animal" and "CWD-Suspect Herd" are proposed to replace "Suspicious Animal" and "Suspicious Herd." The terms are used in the same way, but the definitions are proposed to align with 9 CFR §55.1 and the federal standards. "Enrollment Date," "Enrolled Herd" and "Status Date" are proposed to align with the federal standards. "Executive Director," "Location Identification Number," and "TAHC Authorized Veterinarian" are proposed for clarification. "Herd Certification Program," "Herd Plan" and "Herd Status" are proposed to align with 9 CFR §55.1 and the federal standards. Additionally, parts of 9 CFR §55.24(a) are proposed for addition to the "Herd Status" definition to improve understanding. "Hold Order" and "Quarantine" are defined as the same term in the federal standards, but the commission proposes distinguishing the two types of actions for improved understanding of movement restrictions. "Location Identification Number" is proposed as an alternative location-based numbering system to the Premises Identification Number. "Minimum Mortality Rate" is proposed to reflect the commission's decision to utilize death loss in animals 12 months and over from natural causes averaged over a three-year period to determine the minimum number of samples that must be submitted to meet Herd Certification Program requirements unless epidemiologically determined otherwise. The "Official CWD Test" definition is consistent with 9 CFR Part 55 and the federal standards. "Premises Identification Number" is proposed to better align with 9 CFR §55.1, 9 CFR §81.1 and the federal standards.

The following summaries explain substantive changes to existing definitions. In the "Certified CWD Postmortem Sample Collector" definition, "Postmortem" is added as an update to clarify current sampling procedures. The definition aligns with 4 TAC §47.21. Additionally, "laboratory submission" is proposed to more accurately describe the scope of training and align with the federal standards. "CWD Profile" is proposed for deletion because the term is not used elsewhere in Chapter 40 nor is it used in the federal rules or standards, so the commission proposes adding the clinical signs from

the “CWD Profile” as well as those from 9 CFR §81.1 to the “Chronic Wasting Disease” definition. Those clinical signs compile a non-exhaustive list of potential CWD symptoms to improve understanding of symptoms that may indicate the presence of the disease. In the “Commingled, Commingling” definition, “of any age” is proposed to improve understanding regarding the scope of commingling that no commingling may occur between CWD susceptible species of any age. The proposed addition aligns with 9 CFR §55.1, which does not specify an age, and clarifies that animals 12 months or younger are subject to the same requirements as separate herds enrolled in the Herd Certification Program. In the same definition, the disease status aspect of potential commingling is added to clarify the scope of commingling and follow the federal standards and 9 CFR §55.1 definition of commingling. In the proposed changes to “CWD Susceptible Species”, reindeer and caribou are proposed as the commission independently evaluated evidence supporting the species’ susceptibility to CWD and found sufficient evidence to support the inclusion in the definition. In the “Farmed or Captive” definition, “cervids” is proposed to clarify the animal at issue. The word “temporarily” is proposed for deletion because free-ranging animals could not be temporarily captured before movement, and the deletion conforms to 9 CFR §55.1 and the federal standards. In the same definition, “or intrastate” is proposed to clarify that certain cervids, like white-tailed deer, may move within the state to more accurately describe the scope of cervid movement. In the definition of “Herd”, the requirements for separate herds is proposed for deletion because those exist in §40.3(a)(5). In “Limited Contact”, the terms “incidental” and “between cervids of different herds” are proposed to align with the federal standards and clarify the type of contact at issue. In the definition of “Trace Herd”, “CWD-positive” is proposed to replace “affected” for improved clarity and to align with 9 CFR §55.1.

The proposed rules amend §40.2, “General Requirements”, by proposing “CWD-positive”, “CWD-suspect”, “commission”, “Executive Director” and “approved laboratory” for consistency with §40.1. In subsections (a)(1) and (a)(4), “epidemiologic” is proposed to clarify the kind of investigation conducted upon a hold order or quarantine. In subsection (b), the proposed title amends “Procedures in” to “Requirements for” to better describe the scope of the subsection. Subsection (b) also proposes the flexibility to add herd plan requirements, including duration, that differ from the listed requirements if an epidemiological assessment supports revised action to better protect a herd against the risk and spread of CWD. Further, the word “euthanized” is proposed to replace “destroyed” to more accurately represent the disposal process and use consistent terms with the existing rule. In subsection (b), the commission proposes clarification that the hold order and quarantine period of 5 years is from the “last exposure to a CWD-positive animal or a CWD-exposed animal” rather than the “last case of CWD” to clarify the beginning of the timeframe and align with the federal standards. The existing subsection (b)(3) is proposed for deletion because the disposition of a positive herd is not dependent on whether evidence of transmission exists. As such, subsection (b)(3) did not add substantive content to the section, and subsection (b)(3)(E) is proposed in subsection (b)(2)(E) to ensure no substantive content is deleted. In subsection (c), “disposal” is proposed to replace “destruction” to more accurately describe the process. The word “positive” is proposed to clarify the presumptive diagnosis that would trigger the application of this subsection.

The addition of “a CWD diagnosis” is proposed to clarify what is disclosed on a premises with regard to animal disposal procedures. Finally, the addition of “indemnity” in subsection (d) is proposed to clarify the type of federal payment pursuant to 9 CFR §55.2.

The proposed title for §40.3 is amended from “Herd Status Plans for Cervidae” to “Herd Certification Program for Cervidae” to better describe and clarify the content of the section. In subsection (a)(1), the requirement to identify each animal in the Herd Certification Program before March 31 of the year following the animal’s birth is proposed to be consistent with TPWD’s requirement, promote compliance, and reduce confusion. Subsection (a)(2) proposes the minimum perimeter fence height to 8 feet to align with the federal standards. The amendment would grandfather in existing fences, and require the height after October 15, 2021. Subsection (a)(3) proposes amending the reporting requirement to 72 hours instead of five business days to be consistent with the federal standards. Additionally, “farmed to captive cervids” and “TAHC Authorized Veterinarian” terms are proposed for clarification. The commission proposes the addition that herd owners record as part of the complete inventory births, deaths, acquisitions, and dispositions as well as test result records for those animals that died to follow the federal standards’ herd inventory requirement. In subsection (a)(5)(D), the reference to the federal standards’ appendix is proposed for deletion as the reference is now outdated. In subsection (b), terms are amended to match the terms as defined in §40.1. The commission proposes submitting samples within 7 days of collection to align with the federal standards. In the same section, the commission proposes the test samples meet the minimum mortality rate as defined in §40.1. Subsection (c) clarifies herd status changes and effects, including when a herd would be placed in Suspended Status as a result of CWD, pursuant to 9 CFR §55.24. Subsection (d) updates where an animal identification number may be linked pursuant to 9 CFR §55.23, and subsection (e) clarifies that the five-year record retention requirement begins after the animal has left the herd or died. In subsection (e)(9), age is added for clarification and to align with 9 CFR §55.23 and the federal standards. Subsection (f) is proposed to more closely align with 9 CFR §55.23 and the federal standards. The proposed subsection better describes the three types of inspections required to clarify requirements for enrolled herds. Additionally, the commission proposes the initial inspection occur not more than 60 days prior to the herd’s date of enrollment rather than 12 months to align with current commission practice to enroll herds as quickly as possible. The commission also proposes visual verification on at least 50% of the animals at the annual inspection to align with commission standard practice. In subsection (f)(4), the commission proposes the herd owner notify the respective TAHC Region Office at least 72 hours prior to any inspection performed by a TAHC Authorized Veterinarian to provide sufficient notice and allow a commission representative to observe the inspection. Subsection (g) removes the cross-reference to another commission rule and instead proposes that content for convenience. In subsection (h), “revocation” is proposed to replace “cancellation” to more accurately explain the action. Subsection (i) is proposed to provide herd owners with information about how to voluntarily cancel program participation. The provision follows the federal standards. Subsection (j) is also proposed to follow the federal standards and provide greater clarity regarding what to do upon a herd relocating either

intrastate or interstate. Subsection (k) is proposed to clarify the commission's authority to alter herd status if a herd owner does not comply with Chapter 40 of the Texas Administrative Code.

Subsection (a), of §40.4 Entry Requirements, proposes the clarification and correction to the cross-reference to live animal entry requirements in Chapter 51. The existing subsection (b)(1) is proposed to become part of subsection (b) for improved readability. Because the existing subsection (b)(2) was an exception to subsection (b)(1), a new subsection is proposed for clarity. In the proposed subsections (c) and (d), the term "CWD susceptible species" is proposed for consistency with the defined term.

In §40.5 Surveillance and Movement Requirements for Exotic CWD Susceptible Species, terms from §40.1 are proposed throughout this section for consistency. In the "Eligible Mortality" definition in subsection (a)(1), the "and/or" is proposed to become "or" since the premises could raise or contain exotic CWD susceptible species; the "or" would cover either activity. In the same definition, "or" is proposed to replace "and" because that list regarding causes of death is inclusive. Reindeer and caribou are proposed for addition to the exotic CWD susceptible species definition to reflect the commission's determination based on available evidence that the species is susceptible to CWD. In subsection (c)(2), the description of a PIN is proposed for deletion because that content is included in the proposed definition of "Premises Identification Number (PIN)." In the same subsection, "LID" is added as an identification option, and the addition of "from the commission or USDA" clarifies where a herd owner may obtain a PIN or LID. In subsection (c)(3), "mortality records" is proposed to replace "mortality log" as mortality log is not used elsewhere in the chapter and "mortality records" is consistent with subsection (f)(3). Subsection (c) also proposes the addition of annually reconciling records and requiring that annual inventory records be kept for one year following submission to the commission. In subsections (f)(2) and (h), "representative" is proposed to replace "employee" and "personnel" to clarify who may request mortality or dealer records. In subsection (h)(4), the term "sex" is proposed to replace "gender" of the animal for accuracy of terminology.

Throughout the section §40.6 CWD Movement Restriction Zones, the word "exotic" is proposed to replace "non-native" throughout the chapter for consistency with the commission's governing statutes. In subsection (a), the proposed amendment to the "CWD Containment Zone (CZ)" definition defines the zone more concisely. The proposed addition of "using the best available science" in both that definition and "CWD Surveillance Zone" better reflects current commission practice. In the same subsection, reindeer and caribou are proposed for addition to the exotic CWD susceptible species definition based on the commission's determination that the species is susceptible to CWD. Additionally, the "final processing" and "processing facility" definitions are proposed for clarification. The "high fence premises" definition proposes a fence must be adequate to prevent both ingress and egress, not one or the other. The word "native" in subsection (a)(5) is proposed to move from "CWD Native Susceptible Species" to "Native CWD Susceptible Species" to match the structure of the term "Exotic CWD Susceptible Species." In the same definition, the word "other" is proposed to clarify that mule deer and white-tailed deer are also native cervids. "TPWD" is proposed to replace

“Department” for consistency with the abbreviated term as defined. As such, the proposed alphabetization changes the numeration of this subsection. In subsection (b), the clarifying “such as containment zones and surveillance zones” phrase is proposed to introduce the types of areas restricted for CWD that immediately follow. One new containment zone in subsection (b)(1)(E) and three new surveillance zones in subsections (b)(2)(C), (b)(2)(F) and (b)(2)(G) are proposed in response to recent CWD confirmations. The proposed containment zone covers Lubbock, Lynn, Crosby, and Garza counties. The proposed containment zone number is 6 to correspond to the proposed Surveillance Zone 6. Because the proposed zone covering Uvalde County expands the existing Surveillance Zone 3, the commission proposes amending that zone to include that expansion. Surveillance Zone 7 covers Hunt, Kaufman, Rockwall, and Van Zandt counties. Each proposed zone aligns with zones developed in consultation with Texas Parks and Wildlife Department.

In subsection (c), “Herd Certification Program for Cervidae”, is proposed to align with the proposed §40.3 title. The cross-reference to carcass movement restrictions in subsection (c)(4) corrects subsection (g) to subsection (e); subsection (g) pertains to restriction zone review, not the carcass movement as referenced. In subsections (c-f), the terms “CWD susceptible species,” “TPWD,” “official animal identification,” and “exotic CWD susceptible species” are proposed to align with the terms as defined in §40.1 and subsection (a) of this section. In subsection (d)(7), the “and” is proposed for deletion because either type of identification meets surveillance zone requirements. In subsection (e)(2), “a processing facility for final processing, or another location as permitted by the commission on a VS Form 1-27” is proposed to allow more flexibility in where the harvested animal may be transported. A new subsection, (e)(3), is proposed to reorganize and distinguish the requirements of transportation from taxidermy for clarity; no content is changed. As such, that taxidermy content in the existing subsection (e)(2) is proposed for deletion. In subsection (f), “and” is proposed for deletion from the “and/or” phrase because the Executive Director may authorize movement for either reason. In subsection (g), “representative” is proposed to replace “staff” for consistency with other phrasing regarding persons eligible to review and recommend movement restriction zones.

In subsection (a), of §40.7 Executive Director Declaration of a CWD Movement Restriction Zone, the deletion of the “hold order” definition is proposed since that term is proposed in §40.1. “CWD-positive” and “Executive Director” are proposed to align with defined terms. In subsection (c)(6)(B), “commission representative” is proposed to replace “personnel” for consistency with phrasing throughout this chapter regarding persons eligible to issue these documents. The proposed change to the Order’s elements matches the structure of the introduction. In subsection (c)(7)(D), “quarantine” is proposed to replace “equine” to correct an error and reflect the language of Section 161.063(d) in Title 4 of the Texas Agriculture Code.

The proposed section, §40.8 Enforcement and Penalties, describes the scope of violations and respective penalties as prescribed by Chapter 161 of the Texas Agriculture Code. Administrative penalties may not exceed \$5,000 each day a violation continues or occurs.

The motion to propose amendments to Chapter 40, Chronic Wasting Disease, was proposed by Commissioner Jordan and seconded by Commissioner Vickers. The motion passed.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- c) The Texas Animal Health Commission (commission) proposes amendments to Title 4, Texas Administrative Code, concerning the title of Chapter 45, "Reportable Diseases", §45.1, concerning Definitions, §45.2, concerning Duty to Report, and the additions of §45.3, concerning Reportable and Actionable Disease List and §45.4, concerning Enforcement and Penalties.

During the 87th Texas Legislative Session, Senate Bill 705 removed the statutorily prescribed list of diseases from which the commission is tasked with protecting all livestock, exotic livestock, domestic fowl, and exotic fowl as recommended by the Sunset Advisory Commission's review process. Instead of those statutorily prescribed disease lists, Senate Bill 705 amended Texas Agriculture Code §161.041 and, effective September 1, 2021, requires the commission to adopt and periodically update rules listing the diseases that require control and eradication. Senate Bill 705 also requires the commission to adopt and periodically update rules listing the diseases that the commission determines require reporting pursuant to Section 161.101 of the Texas Agriculture Code. As such, the commission proposes to amend the title of Chapter 45 of the Texas Administrative Code to "Reportable and Actionable Diseases" to accurately reflect which diseases are reportable to and actionable by the commission. The proposed amendments to §45.1. Definitions involve non-substantive editorial changes. In §45.1(1), the term is updated to reflect the new name of the international health agency. In §45.1(3), the "reportable animal disease" definition is added to clarify the diseases reportable to the USDA and align with Senate Bill 705 amendments to Sections 161.101 and 161.041 of the Texas Agriculture Code, which are effective September 1, 2021. In the proposed §45.1(5), "agents of disease transmission" is added to align with Section 161.041(b) of the Texas Agriculture Code. The proposed amendments to §45.2. Duty to Report subsection (a) include the addition of agents of disease transmission, updated terminology, and reorganizing which diseases must be reported pursuant to Section 161.101, Texas Agriculture Code. Subsection (b) proposed amendments clarify what information a veterinarian must report to the commission. The proposed additions are commonly reported to the commission, so the proposal will improve understanding and consistency in information reported to the commission. The proposed amendment would remove the Attached Graphic, which is a list of reportable diseases, and replace it with one new rule section reference to §45.3(c). Section 45.3(c) is a proposed rule that will consolidate multiple reportable disease lists into one reportable and actionable disease list to reduce confusion and improve understanding.

The motion to propose amendments to Chapter 45 Reportable Disease (Proposed – Reportable and Actionable Diseases), was made by Commissioner Vickers and seconded by Commissioner Oates. The motion carried.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- d) The Texas Animal Health Commission proposes a new Chapter 46 in Title 4 of the Texas Administrative Code, titled "Export-Import Facilities" comprised of §46.1, concerning Definitions, §46.2, concerning Duty to Report, §46.3, concerning Recordkeeping Requirements, §46.4, concerning Movement Restrictions, §46.5, concerning Right of Entry and §46.6, concerning Enforcement and Penalties.

The 87th Texas Legislature enacted House Bill 1958 relating to the regulation of livestock export-import processing facilities. House Bill 1958 created Section 161.0445 of the Texas Agriculture Code, which requires an owner or person in charge of an export-import facility to notify the Texas Animal Health Commission (commission) not later than 24 hours after an animal received or held at the export-import facility is refused export out of this state or entry into another country. Sections 161.0445(c) and 161.0445(d) authorize the commission to require reporting and recordkeeping requirements and provisions governing the movement, inspection, testing, or treatment of animals. The definition for "animal" is proposed from Section 161.001 of the Texas Agriculture Code to promote understanding and compliance with the reporting requirements related to that term. The proposed section adds the definition of "export-import facility" pursuant to Section 161.0445(a) of the Texas Agriculture Code. The definition for "VS Form 1-27" is also proposed to specify the permit required for movement of certain animals. The proposed §46.2. Duty to Report section requires the owner or person in charge of the export-import facility to report to the commission certain information concerning an animal refused from international trade to the commission within 24 hours of refusal. The proposed §46.3. Recordkeeping Requirements section identifies the required information an export-import facility must record, maintain and provide to the commission if an animal(s) is refused export out of this state or entry into another country. Subsection (a)(7-12) and subsection (a)(17) are specific to the instance in which animals are rejected. The remaining record requirements in subsection (a) are commonly required on the Export Veterinary Health Certificate. The proposed subsection (b) requires the owner or person in charge of the export-import facility to report to the commission the information required by that section within 7 days of refusal. Subsection (c) proposes that the owner or person in charge of the export-import facility maintain records required by §46.3 for one year following the refusal date. Subsection (d) proposes the owner or person in charge of the export-import facility make records available to the commission upon request during normal business hours. The proposed §46.4. Movement Restrictions section restricts

movement of refused animals and animals in their shipment unless a commission representative permits movement on a VS Form 1-27. Subsection (a) specifies refusal for disease or pest concerns while subsection (b) clarifies an animal may be refused for other reasons, and if the animal and its cohort do not meet applicable commission regulations, a permit for movement is required. The proposed §46.5. Right of Entry section clarifies the commission's ability to enter a public or private export-import facility to examine records, inspect animals, or perform a duty pursuant to Chapter 161 of the Texas Agriculture Code. The proposed §46.6. Enforcement and Penalties section describes the scope of violations and respective penalties as prescribed by Chapter 161 of the Texas Agriculture Code. Administrative penalties may not exceed \$5,000 each day a violation continues or occurs.

The motion to propose amendments to Chapter 46, Export-Import Facilities, was made by Commissioner Jordan and seconded by Commissioner Leathers. The motion passed.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- e) The Texas Animal Health Commission (commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 53, titled "Market Regulation". Specifically, amendments are proposed to §53.1, concerning Facilities, §53.3, concerning Quarantine, §53.4, concerning Market Identification and §53.5, concerning Market Recordkeeping. The commission proposes the addition of §53.6, concerning Enforcement and Penalties. Grammatical and editorial changes are proposed for improved readability throughout §§53.1, 53.3 and 53.4.

The proposed rule amends §53.1, "Facilities", by removing the requirement in subsection (d) to provide adequate laboratory space, if needed, to house brucellosis testing equipment as that brucellosis program requirement no longer exists. Instead, markets are required to provide laboratory space, if needed, to process necessary diagnostic tests. The proposed change from "sink with drain" to "water piped to a properly drained sink" aligns with 9 CFR §71.20. Subsection (e) clarifies the veterinarian must be authorized to perform required disease control or eradication program work. The authorization requirement applies to all applicable disease control or eradication programs, including the brucellosis program. The proposed rule amends §53.3, "Quarantine", by removing brucellosis from subsection (a) because brucellosis is covered by "any infectious, contagious, or communicable disease" and it is no longer necessary to emphasize in this section. Subsection (b) consists of grammatical and editorial changes for consistency and improved readability. In subsection (c), the rule proposes changing "employee" to "representative" because a person authorized by the commission could permit animal movement as described in subsection (a), such as certain USDA employees. The proposed rule amends §53.4, "Market Identification", by

removing the cross-reference in subsection (a) because that reference applies to a brucellosis program requirement that no longer exists. Some markets test voluntarily, and identification is then required if the market elects to test. As such, the proposed addition retains the market's responsibility to supply cattle ear tag and backtag identification to the veterinarian prior to relevant testing. The proposed rule amends §53.5, "Market Recordkeeping", by clarifying which records a market must maintain that are common to all species, which aligns with existing commission rules as well as federal regulations. As such, the recordkeeping requirements are reorganized to improve compliance and readability, and no existing content is removed. Specifically, in subsection (a), those recordkeeping requirements are required of dealers throughout commission rules, and Section 161.049 of the Texas Agriculture Code specifies that the term "dealer" includes livestock markets and commission merchants. In subsections (b) and (c), the time in which to maintain records is reorganized for improved readability and clarification. Additionally, the recordkeeping requirement to maintain records for those consigned cattle for five years, not two years, in subsection (b) is amended to be consistent with 4 TAC §43.2(h). The proposed addition that records must be made available for inspection during normal business hours in subsections (b) and (c) also aligns with 4 TAC §43.2(h). The proposed §53.6. Enforcement and Penalties section describes the scope of violations and respective penalties as prescribed by Chapter 161 of the Texas Agriculture Code. Subsection (b) provides that administrative penalties may not exceed \$5,000 each day a violation continues or occurs.

The motion to propose amendments to Chapter 53, Market Regulation, was proposed by Commissioner Leathers and seconded by Commissioner Oates. The motion passed.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- f) The Texas Animal Health Commission (commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 55, titled "Swine", comprised of §55.1, concerning Testing Breeding Swine Prior to Sale or Change of Ownership, §55.2, concerning Prohibition on the Use of Modified Live Virus Hog Cholera Vaccine, §55.3, concerning Feeding of Garbage, §55.4, Livestock Markets Handling Swine, §55.5, concerning Pseudorabies, §55.7, concerning Slaughter Plant Requirements and §55.9, concerning Feral Swine. The commission also proposes the addition of §55.10, concerning Enforcement and Penalties, to clarify what penalties apply to Chapter 55 of the Texas Administrative Code. In all amended sections, non-substantive grammatical and editorial changes are also proposed for improved readability.

In §55.1. Testing Breeding Swine Prior to Sale or Change of Ownership subsections (a)(1) and (a)(4), "parturient" and "postparturient" are added to cover any swine that have given birth or are about to

give birth and are less than six months of age. In subsection (a)(4), definitions for sow and boar are proposed for clarification pursuant to 9 CFR §78.1. In subsection (a)(6), the proposed definition updates terminology in accordance with the USDA's National Pseudorabies Surveillance Plan, though the existing term "transitional production swine" is referenced to prevent confusion. Subsection (a)(8) deletes the "infected herd" definition to instead add that definition to §55.5 as it is specific to pseudorabies. The definition for "pseudorabies" is proposed to align with 9 CFR §85.1 for improved understanding. Subsection (a)(10) proposes the addition of "TAHC Authorized Veterinarian" to clarify the type of veterinarian eligible to perform certain disease control work. Subsection (b)(2) is rephrased to update the category of veterinarian who may collect and test serology samples. In subsection (b)(4), the proposal clarifies that the movement restriction on breeding swine pending test results are dependent on the hold order, not on the test results. Subsection (b)(5) also clarifies that the USDA-approved ear tag identification must be official, which the existing rule follows by conforming to the alphanumeric National Uniform Ear-tagging System.

For §55.2. Prohibition on the Use of Modified Live Virus Hog Cholera Vaccine, an amended title, "Restricted Use of Modified Live Virus Classical Swine Fever Vaccine", is proposed to update the disease name and vaccination restriction. The proposal aligns with Senate Bill 1997 enacted by the 87th Texas Legislature that changed hog cholera to classical swine fever in Chapter 165 of the Texas Agriculture Code. The section proposes that only certain persons may access the live virus classical swine fever vaccine.

For §55.3. Feeding of Garbage, "Feeding of Garbage Requirements and Garbage Feeding Facility Permit", an amended title is proposed to better describe the content of the section. Subsection (b) proposes the addition of the existing subsection (j) because that exception better fits with the subsection (b) statement regarding who may and may not feed restricted garbage to swine. Subsection (d)(2)(D) is proposed to clarify the source information that is referenced in subsection (d)(2)(C), and (d)(2)(C) is amended to remove the source reference. The addition of subsection (d)(3)(D) is proposed from the existing subsection (i)(2) to improve understanding regarding the commission's authority to revoke or deny the renewal of a permit. Subsection (g) proposes that permit holders shall provide the daily log records during normal business hours of that facility and maintain those records for one year, which aligns with 9 CFR §166.9. The amendment to subsection (h) adds a carcass disposal citation because a registered facility must also follow applicable state law, not merely local ordinance. As such, the commission proposes this reference to provide more notice about other applicable laws. Subsections (i) and (j) are amended and removed in part to create one enforcement section in §55.10; no substantive content is deleted. In subsection (i), editorial changes are proposed to retain the falsification of an application violation provision for clarity.

Subsection (a) of §55.4. Livestock Markets Handling Swine is proposed to amend the statement concerning nylon mesh is proposed for deletion because it is outdated. Subsection (b) is proposed for deletion because test-eligible swine is defined in §55.1. In subsection (c), the 120 days requirement for a market to bring the facility into compliance is proposed for deletion because that is now outdated; more than 120 days have passed since the date of the rule's adoption. Subsection

(f)(2) updates the reference to the Code of Federal Regulations relating to the approval of livestock facilities and conform to 9 CFR §71.20 specifically relating to requirements for facilities handling swine. In subsection (g), hog cholera is amended to classical swine fever pursuant to Chapter 165 of the Texas Agriculture Code as amended by the 87th Texas Legislature. Classical swine fever is the more common and updated name of the disease. The amendment in the same section is proposed to clarify that swine movement must be permitted as opposed to authorized. Subsection (i)(4) clarifies that the swine must be officially identified, and subsection (i)(5) clarifies how long the market shall maintain the backtag information pursuant to 4 TAC §53.5. Specifically, the proposed addition aligns with 4 TAC §53.5(b) requiring markets, who are dealers, to maintain records for swine for two years from the date of transaction. In subsection (i)(6), an alternative applicable TAHC form is added to update the rule; either the TAHC Form 91-26 or the VS Form 4-54S may be used for the swine test chart.

For §55.7. Slaughter Plant Requirements, in subsections (a) and (a)(4), “slaughter” is proposed to replace “kill” as the more commonly used term. In subsections (a)(1) and (a)(5), the recordkeeping requirements are added for clarity and pursuant to §148.011 of the Texas Agriculture Code. Additionally, the title of the VS Form 4-54S is amended for accuracy, and the alternate form, TAHC Form 91-26 is proposed as an update for where swine samples and identification may be recorded. In subsections (a)(3-4) and (b)(2), the laboratory term is updated in response to Senate Bill 705 enacted by the 87th Texas Legislature, which closed the commission’s state-federal laboratory and designated the Texas A&M Veterinary Medical Diagnostic Laboratory as Texas’ regulatory animal health laboratory in Section 161.0603 of the Texas Agriculture Code, effective September 1, 2021.

The proposed title of §55.9. Feral Swine “Feral Swine Requirements, Facility Approval and Authorization” to more accurately describe the content of the section. As such, the proposed title may allow regulated persons to more easily find the requirements for holding facility and hunting preserve authorization. In subsections (a), (c) and (d), the requirement for swine-proof fences to prevent both ingress and egress is clarified. In subsection (a), “*Sus scrofa*” is proposed for deletion because that binomial nomenclature refers to all swine, not exclusively domestic swine. Subsection (b)(7) is amended to clarify the premises where feral swine were prior to movement to an authorized location. In subsection (c)(2)(E), the word “intentionally” is proposed for deletion because feral swine shall not be commingled with any domestic or exotic swine for any reason, whether intentionally or not. Subsection (c)(2)(G) replaces “dead animals” with “animal carcasses” to reflect more precise terminology. References to other carcass disposal requirements are proposed to provide notice of state law that a registered facility must also follow. Subsection (c)(2)(H) amends the term from “approved slaughter facility” to “recognized slaughter facility” to match the term as defined in this section. Subsection (d)(2)(B) clarifies some available types of individual identification required for any feral swine released that are approved by the commission. In subsection (d)(2)(G), citations and terminology are clarified for improved understanding. Subsection (d)(3)(C) is proposed because the statement existing in subsection (h)(2) better fits in this authorized hunting preserve section concerning permit authorization. As such, no substantive addition is proposed, and the next

subsection is renumbered accordingly. Subsection (g) adds specific citations for clarification regarding commission inspection authority. Amendments that remove portions of subsection (h) are proposed to create one enforcement section in §55.10; no substantive content is deleted. In the same section, editorial changes are proposed to retain the falsification of an application violation provision for clarity.

The proposed section §55.10. Enforcement and Penalties describes the scope of violations and respective penalties as prescribed by Chapter 161 of the Texas Agriculture Code. Subsection (b) provides that administrative penalties may not exceed \$5,000 each day a violation continues or occurs.

The motion to propose amendments to Chapter 55, Swine, was made by Commissioner Johnson and seconded by Commissioner Leathers. The motion passed.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

- g) The Texas Animal Health Commission (commission) proposes amendments to §59.5, concerning Open Records. The proposed amendments clarify language on submitting public information requests and make terminology more consistent. A proposed amendment removes current §59.5(b), which describes requests submitted by mail to the attention of the General Counsel. By specifying that requests may be sent to one of the methods indicated on the agency's website, the rule would help ensure that any requests are promptly forwarded to the commission's Public Information Coordinator. A proposed amendment relating to charges for public records removes an outdated reference and examples of records that may be furnished without charge and incorporates by reference the Office of the Attorney General's (OAG) cost rules. A proposed amendment regarding inspection of records clarifies when a member of the public may physically inspect records and allows for the denial of access under certain circumstances.

The Texas Public Information Act (Act) gives the public the right to request access to government information. The Act is triggered when a person submits a written request to a governmental body. The request must ask for records already in existence and does not require a governmental body to create new information, do legal research, or answer questions.

The motion to propose amendments to Chapter 59, General Practices and Procedures, 59.5 Open Records (Proposed – Public Information Act Requests), was made by Commissioner Oates and seconded by Commissioner Langdon. The motion passed.

The notice of the proposed amendments will be published in the Texas Register with a 30-day comment period. Comments regarding the review proposals may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at "comments@tahc.state.tx.us".

Item 17 – Closed Executive Session to Receive Legal Advice, Discuss Pending or Contemplated Litigation, and Settlement Offers as Permitted by Section 551.071 of the Texas Government Code.

Item 18 – Closed Executive Session to Deliberate the Appointment, Employment, Evaluation, Reassignment, Duties, Discipline, or Dismissal of Specific Commission Employees as Permitted by Section 551.074 of the Texas Government Code

Item 19 – Reconvene to Consider Any Action Needed Following Closed Executive Session

No Closed Executive Session was required.

Item 20 – Public Comment

Instructions for unmuting lines and for the speaker to identify themselves was detailed. No public comments were made by remote participants. Public comment by participants present in person were made at the time the item pertaining to the comment was presented.

Item 21 – Set Date for 410th Commission Meeting

The date for the 410th Commission Meeting was not set at the time of the meeting. Notice will be posted on the agency's website when the next Commission meeting date has been set.

Item 22 – Adjournment

The meeting adjourned at 1:02PM.