

The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 45 titled "Reportable and Actionable Disease List." The purpose of the amendment is to establish and include "egg drop syndrome virus" as a disease that is reportable to the Commission.

## BACKGROUND AND PURPOSE

Egg drop syndrome virus (EDSv) is an infectious disease caused by an adenovirus which can affect many species of poultry and birds. The clinical signs of EDSv are largely associated with egg production. Infected birds produce thin-shelled, soft-shelled, or shell-less eggs, and experience a rapid and extended loss in egg production. Currently, there is no treatment for EDSv and vaccine use is limited.

Due to the economic risks posed by EDSv on the Texas poultry industry, early detection and reporting are critical to prevention. The proposed amendment to 4 TAC §45.3 will add egg drop syndrome virus to the list of diseases that are reportable to the Commission in order to address the emerging threat to susceptible species in Texas.

Filed concurrently with a separate preamble, the Commission also proposes amendments to Section 51.15 concerning entry requirements for poultry that require domestic poultry from EDSv affected states or poultry vaccinated against EDSv to enter Texas for immediate slaughter only with a written request reviewed and approved by the executive director.

## SECTION-BY-SECTION DISCUSSION

The proposed amendment to §45.3, Reportable and Actionable Disease List, adds egg drop syndrome virus to the list of reportable and actionable diseases and reorders the list in alphabetical order.

## FISCAL NOTE

Ms. Jeanine Coggeshall, General Counsel for the Texas Animal Health Commission, determined that for each year of the first five years that the rule is in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state or local governments. Commission employees will administer and enforce these rules as part of their current job duties and resources. Ms. Coggeshall also determined for the same period that there is no estimated

increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed amendments.

#### PUBLIC BENEFIT NOTE

Ms. Coggeshall determined that for each year of the first five years the rule is in effect, the anticipated public benefits are increased awareness and early detection of EDSv.

#### TAKINGS IMPACT ASSESSMENT

The Commission determined that the proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. Therefore, the proposed rules are compliant with the Private Real Property Preservation Act in Texas Government Code §2007.043 and do not constitute a taking.

#### LOCAL EMPLOYMENT IMPACT STATEMENT

The Commission determined that the proposed rules would not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission pursuant to Texas Government Code §2001.022.

#### REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Commission determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the Commission prepared the following Government Growth Impact Statement. The

Commission determined for each year of the first five years the proposed rules would be in effect, the proposed rules:

- Will not create or eliminate a government program;
- Will not require the creation or elimination of employee positions;
- Will result in no assumed change in future legislative appropriations;
- Will not affect fees paid to the Commission;
- Will not create new regulation;
- Will minimally expand existing regulations;
- Will not change the number of individuals subject to the rule; and
- Will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Coggeshall also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities pursuant to Texas Government Code, Chapter 2006. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

#### COSTS TO REGULATED PERSONS

The proposed amendments to Chapter 45 do not impose additional costs on regulated persons and are designed to create a duty to report cases of EDSv. Any cost would be associated with the act of reporting itself, which is typically accomplished via email or phone call, or both. The proposed rules do not otherwise impose a direct cost on a regulated person, state agency, a special district, or a local government within the state.

#### PUBLIC COMMENT

Written comments regarding the proposed amendments may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by e-mail to [comments@tahc.texas.gov](mailto:comments@tahc.texas.gov). To be considered, comments must be received no later than thirty (30) days from the date of publication of this proposal in the *Texas Register*. When faxing or emailing comments, please indicate "Comments on Proposed Rule-Chapter 45, Reportable and Actionable Diseases" in the subject line.

## STATUTORY AUTHORITY

The amendments are proposed under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with the Texas Agriculture Code.

Pursuant to §161.041, titled "Disease Control," the Commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the commission determines require control or eradication. Pursuant to §161.041(b) the Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

Pursuant to §161.048, titled "Inspection of Shipment of Animals or Animal Product," the Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. An agent of the Commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state to determine if the shipment originated from a quarantined area or herd; or determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or non-communicable disease.

Pursuant to §161.054, titled "Regulation of Movement of Animals; Exception," the Commission may by rule regulate the movement of animals, and may restrict the intrastate movement of animals even though the movement of the animals is unrestricted in interstate or international commerce. The Commission may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved.

Pursuant to §161.101, titled "Duty to Report," a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the disease, if required by the Commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the Commission within 24 hours after diagnosis of the disease.

No other statutes, articles, or codes are affected by this proposal.

The Commission hereby certifies that this proposal has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

<rule>

Rule §45.3. Reportable and Actionable Disease List

(a) – (b) (No change.)

(c) The commission designates the following as reportable and actionable diseases and agents of disease transmission.

(1) – (6) (No change.)

(7) Poultry and avian:

(A) Arboviral encephalitis;

(B) Avian chlamydiosis (ornithosis, psitticosis);

(C) Avian infectious laryngotracheitis;

(D) Avian tuberculosis (*Mycobacterium avium*);

(E) Duck virus hepatitis;

(F) Egg drop syndrome virus;

(G) [~~(F)~~] Fowl typhoid;

(H) [~~(G)~~] Highly pathogenic avian influenza (fowl plague, orthomyxovirus (type H5 or H7));

(I) [~~(H)~~] Low pathogenic avian influenza;

(J) [~~(I)~~] Newcastle disease (paramyxovirus serotype 1 (PMV-1));

(K) [~~(J)~~] Paramyxovirus infections (other than Newcastle disease; PMV-2 to PMV-9); and

(L) [~~(K)~~] Pullorum disease;

(8) (No change.)

(d) (No change.)