

The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 51 titled "Entry Requirements." Specifically, the Commission proposes amendments to §51.15 regarding Poultry.

BACKGROUND AND PURPOSE

The Commission is tasked with creating and enforcing entry requirements for livestock, fowl, exotic livestock, and exotic fowl. The Commission proposes amendments to the entry requirements governing poultry to simplify and consolidate rules across chapters and to add entry requirements concerning egg drop syndrome virus (EDSv).

Currently, entry requirements for poultry are located in §51.15 and in §57.11. The proposed amendments move the requirements from §57.11 to §51.15. These changes are proposed to create concise and clear guidelines for entry. Additionally, current rules are written in large paragraph blocks that can be difficult to understand. The proposed amendments seek to break the requirements down into easy to follow lists. The proposed amendments to §51.15 are filed concurrently with proposed amendments to §57.11.

Further, the proposed amendments to §51.15 include new entry requirements for poultry entering from EDSv affected states. The proposed amendments require birds from affected states or birds that have been vaccinated against EDSv to submit a written request prior to entry and obtain authorization from the executive director prior to entry. Egg drop syndrome virus (EDSv) is an infectious disease caused by an atadenovirus which can affect many species of poultry and birds. The disease results in malformed eggs and decreased egg production. Currently, there is no treatment for EDSv. The proposed amendments to §51.15 are filed concurrently with a proposed amendment to §45.3 which adds EDSv to the Commission's reportable and actionable disease list.

SECTION-BY-SECTION DISCUSSION

Section 51.15 includes entry requirements for poultry. The proposed amendments consolidate entry requirements currently found in §57.11 for clarity and conciseness. The proposed amendments reorganize existing entry requirements into easier to follow lists rather than bulky paragraphs. And the proposed amendments create new requirements for birds entering Texas from EDSv affected states similar to existing requirements for birds entering Texas from Infectious Laryngotracheitis affected states.

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 more accessible rules for poultry entry and added protection from potential risks of EDSv to Texas poultry.

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 expand existing regulations through the creation of entry requirements from EDSv affected states;
- Will 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 51 do not impose additional costs on regulated persons and are designed to consolidate and clarify entry requirements for poultry and ensure Texas poultry is adequately protected from disease risk. 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. 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 51, Entry Requirements" 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 §161.043, titled "Regulation of Exhibitions," the Commission may regulate the entry of livestock and may require certification of those animals as reasonably necessary to protect against communicable diseases.

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 §161.056(a), titled "Animal Identification Program," the Commission, to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the Commission to adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.081, titled "Importation of Animals," the Commission by rule may provide the method for inspecting and testing animals before and after entry into Texas. The Commission may create rules for the issuance and form of health certificates and entry permits.

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 §51.15. Poultry

(a) [All poultry must meet the requirements contained in §57.11, of this title (relating to Entry Requirements).] Poultry shipped into the State of Texas shall be accompanied by an official health certificate issued by an accredited veterinarian within 30 days prior to shipment and shall have an entry permit in accordance with §51.2 of this title (relating to General Requirements). The health certificate shall state:

(1) Poultry have been inspected and are free of evidence of infectious or contagious disease;

(2) Poultry have been vaccinated only with approved vaccines as defined in this regulation;

(3) Poultry have not originated from an area that has had active Laryngotracheitis or chicken embryo origin Laryngotracheitis vaccine virus within the last 30 days; and

(4) Poultry have passed a negative test for pullorum-typhoid within 30 days prior to shipment or that they originate from flocks which have met the pullorum-typhoid requirements of the Texas Pullorum-Typhoid Program and/or the National Poultry Improvement Plan.

(5) Live domestic poultry from states not affected with Avian Influenza may enter Texas under the following circumstances:

(A) The domestic poultry originates from a flock that is certified in accordance with the National Poultry Improvement Plan as U.S. Avian Influenza Clean, U.S. H5/H7 Avian Influenza Clean, or U.S. H5/H7 Avian Influenza Monitored; or

(B) The domestic poultry is from an Avian Influenza negative flock that participates in an approved state-sponsored Avian Influenza monitoring program and participation in the program and the general description of the birds, test date, test results, and name of testing laboratory are documented on the CVI; or

(C) The domestic poultry originate from a flock in which a minimum of 30 birds, 4 weeks of age or older, or the complete flock, if fewer than 30,

are serologically negative to an Enzyme Linked Immunosorbent Assay (ELISA) or Agar Gel Immunodiffusion (AGID) test for Avian Influenza within 30 days of entry or a minimum of 10 birds (e.g. two pools of 5 birds per house) are tested negative on trachea swabs to a real-time reverse-transcriptase polymerase chain reaction (RRT-PCR) test within 30 days of entry or negative to other tests approved by the Commission; the general description of the birds, test date, test results, and name of testing laboratory are documented on the CVI.

(b) Movement of poultry from disease affected states. [~~Live domestic poultry, except those entering for slaughter and processing at a slaughter facility owned or operated by the owner of the poultry entering, may enter Texas only under the following circumstances;~~]

(1) Live domestic poultry from states affected with Avian Influenza may enter Texas for immediate slaughter and processing only under the following circumstances: [~~The domestic poultry originate from a flock that is certified as Avian Influenza clean in accordance with the National Poultry Improvement Plan and the shipment is accompanied by a Certificate of Veterinary Inspection; or~~]

(A) A minimum of 30 birds per flock are serologically negative to an ELISA or AGID test for Avian Influenza within 72 hours of entry, or a minimum of 10 birds (e.g., two pools of 5 birds per house) are tested negative on tracheal swabs to a RRT-PCR test within 72 hours of entry or negative to other tests approved by the TAHC; and

(B) Specific written permission has been granted.

(2) Live domestic poultry from states affected with Infectious Laryngotracheitis or poultry that has been vaccinated with chick embryo vaccine may enter Texas for immediate slaughter and processing only under the following conditions: [~~The domestic poultry is from an Avian Influenza negative flock that participates in an approved state-sponsored Avian Influenza monitoring program and the shipment is accompanied by a Certificate of Veterinary Inspection indicating participation and listing the general description of the birds, test date, test results, and name of testing laboratory; or~~]

(A) The request for authorization to bring poultry into the state must be in writing and shall include a proposed route to slaughter that would not pose a disease risk to Texas poultry;

(B) The initial request must be approved by the executive director prior to entry of the poultry;

~~(3) Live domestic poultry from states affected with egg drop syndrome virus or poultry that has been vaccinated against the virus may enter Texas for immediate slaughter and processing only under the following conditions: [The domestic poultry originate from a flock in which a minimum of 30 birds, 4 weeks of age or older, or the complete flock, if fewer than 30, are serologically negative to an Enzyme Linked Immunosorbent Assay (ELISA) or Agar Gel Immunodiffusion (AGID) test for Avian Influenza within 30 days of entry or a minimum of 10 birds (e.g. two pools of 5 birds per house) are tested negative on trachea swabs to a real-time reverse transcriptase polymerase chain reaction (RRT-PCR) test within 30 days of entry or negative to other tests approved by the Commission; the shipment shall be accompanied by a Certificate of Veterinary Inspection listing the general description of the birds, test date, test results, and name of testing laboratory.]~~

(A) The request for authorization to bring poultry into the state must be in writing and shall include a proposed route to slaughter that would not pose a disease risk to Texas poultry;

(B) The initial request must be approved by the executive director prior to entry of the poultry;

~~[(4) Live domestic poultry from states affected with Avian Influenza may enter Texas for slaughter and processing only under the following circumstances: A minimum of 30 birds per flock are serologically negative to an ELISA or AGID test for Avian Influenza within 72 hours of entry, or a minimum of 10 birds (e.g., two pools of 5 birds per house) are tested negative on tracheal swabs to a RRT-PCR test within 72 hours of entry or negative to other tests approved by the TAHC, and specific written permission has been granted.~~

~~(5) Live domestic poultry broilers from states affected with Infectious Laryngotracheitis and vaccinated with chick embryo vaccine may enter Texas~~

~~for immediate slaughter and processing only under the following conditions. The request for authorization to bring poultry into the state must be in writing and shall include a proposed route to slaughter that would not pose a disease risk to Texas poultry. The initial request must be approved by the Executive Director prior to entry of the poultry. All shipments of poultry qualifying for entry under this subsection shall have an entry permit in accordance with §51.2 of this title (relating to General Requirements) and documentation of the origin of the shipment.]~~

(c) An official health certificate is not required on poultry consigned to slaughter establishments, which maintain federal or state ante and postmortem inspection, provided the shipment is accompanied by a waybill indicating the plant of destination.

(d) Baby poultry will be exempt from this section if from an NPIP, or equivalent, hatchery, and accompanied by NPIP Form 9-3 or 9-3i; or, if covered by an approved "Commuter Poultry Flock Agreement" on file with the state of origin and the commission.

(e) Live poultry, unprocessed poultry, hatching eggs, unprocessed eggs, egg flats, poultry coops, cages, crates, other birds, and used poultry equipment affected with, or recently exposed to, infectious, contagious, or communicable disease, or originating in state or federal quarantined areas shall not enter Texas without express written consent from the commission.