

The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 57 titled "Poultry." Specifically, the Commission proposes amendments to §57.11 regarding general requirements.

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. 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. The proposed amendments to §57.11 are filed concurrently with proposed amendments to §51.15.

SECTION-BY-SECTION DISCUSSION

The proposed amendment to §57.11, General Requirements, remove the interstate movement requirements that have been moved to §51.15, renumber paragraphs, and clarify proven available methods of poultry carcass disposal.

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.

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 not 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 57 do not impose additional costs on regulated persons and are designed to consolidate and clarify entry requirements for poultry. 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 57, Poultry" 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.

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 §57.11. General Requirements

(a) – (d) (No change.)

~~[(e) Interstate Movement.~~

~~(1) 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. The health certificate shall state that the poultry have been inspected and are free of evidence of infectious or contagious disease; that the poultry have been vaccinated only with approved vaccines as defined in this regulation; and that the poultry have not originated from an area that has had active Laryngotracheitis or chicken embryo origin Laryngotracheitis vaccine virus within the last 30 days. The certificate shall also state the 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. Baby poultry will be exempt from this section if from an NPIP, or equivalent, hatchery, and accompanied by NPIP Form 9-3, or APHIS Form 17-6; or, are covered by an approved "Commuter Poultry Flock Agreement" on file with the state of origin and the commission.~~

~~(2) An official health certificate is not required on poultry consigned to slaughter establishments, which maintain federal postmortem inspection, provided the shipment is accompanied by a waybill indicating the plant of destination.~~

~~(3) 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.]~~

~~(e)~~ [(f)] Depopulation and disposition of poultry and eggs. The commission shall depopulate or dispose of poultry and/or hatching eggs that pose a threat to the

poultry industry of the State of Texas after a hearing before the commission pursuant to the Administrative Procedure Act.

(f) [(g)] Dead poultry disposal. Dead poultry are to be disposed of in a manner that facilitates the decomposition of carcasses and destruction of disease agents while limiting the spread or exposure of disease to other susceptible species. Proven methods of carcass disposal include ~~[by]~~ incinerating, burying in disposal pits, composting, thermal dehydration, or hauling to a rendering plant or landfill in closed containers.

(g) [(h)] Cleaning and disinfecting.

(1) Premises found to have housed, incubated, brooded, or ranged an infected flock shall be cleaned and disinfected under the supervision of the commission within 15 days following depopulation, unless an extension of time is granted. Infected premises shall not be restocked with poultry or eggs for hatching purposes until the cleaning and disinfecting requirement of this subsection is certified complete by the commission. The following cleaning and disinfection procedures are approved for Laryngotracheitis:

(A) completely clean house, spray with disinfectant, and close for 15-30 days; or

(B) remove all dead poultry and caked litter, spray with disinfectant, and close for 15-30 days.

(2) Trucks, loading equipment, cages, or coops used in hauling poultry vaccinated with restricted vaccines or infected with a reportable disease within a designated area or from a designated area shall be cleaned and disinfected prior to entering premises on which the disease has not been diagnosed and the vaccine has not been used or as directed by the commission.

(h) [(i)] Designated area for Laryngotracheitis. The following procedures shall apply to all poultry operations:

(1) Replacement poultry. All poultry housed in the designated area will be vaccinated twice (no earlier than four weeks of age and again at least four weeks later) with cell culture (eye drop) modified vaccine before being housed for egg production. A certificate of vaccination must be on file with the owner, farm manager,

and the commission. Prior entry permit and health certificate with vaccination history are required for poultry originating out-of-state. These poultry may receive the second vaccination upon arrival at farm, but the first vaccination must be no earlier than four weeks of age.

(2) Molted hens.

(A) Any hen molted and retained for egg production must be vaccinated with cell culture vaccine after molting.

(B) The hens on known infected premises may be allowed to complete the laying cycle but shall not be molted. Empty houses shall be repopulated only with pullets that have been vaccinated twice with cell culture vaccine at the proper age.

(3) Broilers may be vaccinated with chick embryo vaccine under the following conditions.

(A) No vaccination except by agreement with the commission.

(B) Agreements signed under the following conditions:

(i) broilers less than five weeks of age located within a designated area;

(ii) the next two flocks following an infected flock if epidemiologically sound;

(iii) chick embryo vaccine can be used in layers or breeders only to stop an outbreak and only by agreement with the commission.

(4) Movement.

(A) Permits are required for movement of all non infected flocks between farms in the designated area. Poultry may move from a designated area only to slaughter and only under permit.

(B) Infected flocks and chick embryo origin vaccinated flocks can be moved only to slaughter under permit.

(5) Trucks.

(A) Cleaning and disinfection is required for all trucks hauling infected flocks and chick embryo origin vaccinated flocks.

(B) Farms with poultry infected with Laryngotracheitis or vaccinated with chick embryo origin vaccine are to be serviced the last trip of the day. The driver should not enter the poultry house. The driver must wear rubber boots and disinfect them before leaving the farm. All vehicles should be disinfected after entering an infected premise.

(6) Personnel.

(A) Employees from infected or chick embryo origin vaccinated farms are not to enter houses on non infected or non chick embryo origin vaccinated farms.

(B) When entering infected houses, managers must wear protective clothing and change before entering non infected houses.

(C) Catching crews must follow cleaning and disinfection procedures before entering and leaving all infected or chick embryo origin vaccinated premises.

(7) Equipment.

(A) Egg flats from infected or chick embryo origin vaccinated premises are to be returned to infected houses or disposed of or disinfected.

(B) Equipment from infected or chick embryo origin vaccinated farms cannot be moved to other farms without cleaning and disinfection.

(8) Dead poultry disposal must be according to regulations.