

The Texas Animal Health Commission (commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 51, §51.2 concerning General Requirements, and §51.8, concerning Cattle.

BACKGROUND AND SUMMARY OF PROPOSED AMENDMENTS

The proposed amendment to §51.2(b)(2)(B) clarifies that the certificate of veterinary inspection must include “official” individual animal identification on the certificate. Animals moved interstate must be accompanied by a certificate of veterinary inspection (CVI) in accordance with Texas Agriculture Code §161.054, Title 9 Code of Federal Regulations §86.5, and 4 TAC §51.2(b)(1). The commission is proposing an amendment to §51.2 to clarify the type of individual animal identification that must be documented on a CVI, align TAHC rules with federal requirements in 9 CFR §86.1, and improve animal disease traceability for animals moving into Texas.

The proposed amendment to §51.8 increases the tuberculosis testing age for dairy cattle moving into Texas from two to six months. Tuberculosis is a contagious, chronic, respiratory disease that affect cattle and other livestock and non-livestock species. The TAHC has more stringent disease testing requirements than USDA and other states related to the interstate movement of dairy cattle. Because of this variation, animal health officials in other states requested TAHC to review the current tuberculosis test age requirement for dairy cattle moving to Texas. TAHC staff determined that testing dairy calves at six months of age, instead of two months, was adequate to mitigate the disease risks associated with the movement of dairy calves in interstate commerce.

The amendments are proposed pursuant to Texas Agriculture Code §161.041(a) and (b), which authorizes the commission to adopt any rules necessary to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl and exotic fowl. Recording official identification, which is unique to that animal, on a certificate of veterinary inspection ensures the animal or animal(s) moved into Texas were examined by a veterinarian and found to be free of symptoms or evidence of communicable or infectious diseases. Recording the official identification also enhances the TAHC’s ability to trace disease-infected or disease exposed animals. Additionally, tuberculosis test requirements for dairy cattle six months of age or older adequately mitigate the risk that tuberculosis, a

contagious respiratory disease in cattle and other species, is not inadvertently moved into Texas.

SECTION-BY-SECTION DISCUSSION

The proposed amendment to §51.2, General Requirements, adds that animals vaccinated or tested for any disease as required by the commission be individually officially identified on a certificate of veterinary inspection, instead of just individually identified.

The proposed amendments to §51.8, Cattle, increases the tuberculosis testing age for dairy cattle entering Texas from two to six months of age.

FISCAL NOTE

Ms. Myra Sines, Chief of Staff of the Texas Animal Health Commission, determined that for each year of the first five years the rules are in effect, there will be no additional fiscal implications for state or local government because current commission employees will administer and enforce these rules as part of their current job duties and resources. Ms. Sines also determined for the same period that there is no estimated increase or loss in revenue to state or local government as a result of enforcing or administering the rule amendments.

PUBLIC BENEFIT NOTE

Ms. Sines determined that for each year of the first five years the rules are in effect, the anticipated public benefit is to facilitate the movement of animals in interstate commerce and promote understanding and compliance with interstate movement requirements.

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. Instead, the proposed amendments relate to the handling of animals, including requirements concerning testing, movement, inspection, identification, reporting of disease, and treatment pursuant to 4 TAC §59.7. Therefore, the proposed rules are compliant with the Private Real Property

Preservation Act in Texas Government Code §2007.043 and do not constitute a takings.

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

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

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.

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.

GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the commission prepared the following Government Growth Impact Statement. For each year of the first five years the proposed rules would be in effect, the commission determined the following:

1. The proposed rules will not create or eliminate a government program;
2. Implementation of the proposed rules will not require the creation of new employee positions or the elimination of existing employee positions;

3. Implementation of the proposed rules will not increase future legislative appropriations to the commission;
4. The proposed rules will not increase or decrease the fees paid to the commission;
5. The proposed rules will not create a new rule;
6. The proposed rules will limit an existing rule but will not otherwise expand or repeal existing rules;
7. The proposed rules will not increase the number of individuals subject to the rules; and
8. The proposed rules will not affect the state's economy.

COSTS TO REGULATED PERSONS

The commission determined there will be no costs associated with requiring official individual identification to be recorded on interstate certificates of veterinary inspection because veterinarians are currently required to include individual identification on the certificate and 9 CFR §86.1 requires accredited veterinarians to list the official identification number for each animal. The commission also determined there will be no costs anticipated in changing the tuberculosis test age for dairy cattle entering the state from two to six months of age.

The commission also determined that the rules as proposed follow the legislative requirement that the commission shall protect all livestock from diseases the commission determines require control or eradication, which includes tuberculosis. The rules do not impose a direct cost on regulated persons, including a state agency, a special district, or a local government, within the state. Therefore, it is not necessary to repeal or amend any other existing rule.

REQUEST FOR 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 to (512) 719-0719 or by email 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 Chapter 51-Entry Requirements" in the subject line.

STATUTORY AUTHORITY

The amendments are authorized by Texas Agriculture Code, Chapter 161.

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 §161.046, titled "Rules," the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.047, titled "Entry Power," a commissioner or veterinarian or inspector employed by the commission may enter public or private property for the exercise of an authority or performance of a duty under Chapter 161.

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 the state of 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>

51.2. General Requirement

(a) (No change.)

(b) Certificate of veterinary inspection.

(1) (No change.)

(2) The certificate of veterinary inspection shall state that:

(A) (No change.)

(B) the animals were subjected to tests, immunizations, and treatment required by rule of the commission. Animals that have been vaccinated or tested for any disease as required by the commission shall be individually officially identified on the certificate of veterinary inspection; and

(C) (No change.)

(3) (No change.)

51.8. Cattle

(a) (No change.)

(b) Tuberculosis requirements.

(1) - (2) (No change.)

(3) All dairy breed animals, including steers and spayed heifers, shall be officially identified prior to entry into the state. All sexually intact dairy cattle, that are ~~six~~ two months of age or older may enter provided that they are officially identified, and are accompanied by a certificate of veterinary inspection stating that they were negative to an official tuberculosis test conducted within 60 days prior to the date of entry. All sexually intact dairy cattle that are less than ~~six~~ two months of age must obtain an entry permit from the Commission, as provided in §51.2(a) of this title (relating to General Requirements), to a designated facility where the animals will be held until they are tested negative at the age of ~~six~~ two months. Animals which originate from a tuberculosis accredited herd, and/or animals moving directly to an approved slaughtering establishment are exempt from the test requirement. Dairy cattle delivered to an approved feedlot for feeding for slaughter by the owner or consigned there and accompanied by certificate of veterinary inspection with an entry permit issued by the commission are exempt from testing unless from a restricted herd. In addition, all sexually intact dairy cattle originating from a state or

area with anything less than a tuberculosis free state status shall be tested negative for tuberculosis in accordance with the appropriate requirements for states or zones with a status as provided by Title 9 of the Code of Federal Regulations, Part 77, Sections 77.10 through 77.19, for that status, prior to entry with results of the test recorded on the certificate of veterinary inspection.

(4) - (7) (No change.)

(c) (No change.)