

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 33, which is entitled “Fees”. The proposed amendments are for the purpose of assessing and collecting fees for services related to the Commission creating, maintaining, and/or validating disease free certification or status programs. It will be a new section identified as §33.5 and entitled “Herd Disease Free Status Fees”.

The Commission provides the following herd free status programs: Requirements for Certified Brucellosis Free Herd of Cattle (See §35.3 of this title (relating to Brucellosis in Cattle), Initial Validation and Revalidation of Individual Swine Herd (See §35.48 of this title (relating to Brucellosis in Swine), Requirements for Certified Brucellosis Free Cervidae Herd (See §35.82 of this title (relating to Brucellosis in Cervidae), Requirements for Certified Brucellosis Free Herd of Goats (See §35.62 of this title (relating to Brucellosis in Goats), Herd Status Plans for Cervidae (See §40.3 of this title (relating to Chronic Wasting Disease), Accredited Herd Plan for Goats (See §43.11 of this title (relating to Tuberculosis in Goats), Herd Status Plans for Cervidae (See §43.22 of this title (relating to Tuberculosis in Cervidae), Trichomoniasis Herd Certification Program--Breeding Bulls (See §38.8 of this title (relating to Trichomoniasis), and Pseudorabies (See §55.5 of this title (relating to Pseudorabies in Swine).

The basic premise of any disease free status or certification program is based on following similar principles: testing on a regular basis, maintaining a closed herd, testing new arrivals as required, and following all other rules and regulations of the program. For new arrivals, status is maintained by only purchasing animals from an accredited/certified free herd or testing the new animals prior to introduction into the herd. The animals must all be officially identified, and an inventory maintained for all animals in the herd as directed by the program rules.

The regulations for these programs can describe general requirements for the collection and submission of samples to approved laboratories for testing, recognition of official tests, and the interpretation standards for official tests which are necessary to achieve or maintain “Free Herd” status. Herds which have achieved this status may have distinct advantages in the marketability and the ease or cost of interstate/international movement of animals.

The proposed fee will be \$100.00 for each certificate or status approved or renewed and issued by the Commission. The fee is due in full in order to issue a certificate to provide a herd status.

The Commission has legislative authority to make and enforce regulations and assess fees to prevent, control, and eradicate specific infectious animal diseases or pests which endanger livestock, exotic livestock, and poultry. The Commission is also the lead agency in Texas for animal disaster issues, including disease, natural, or manmade situations.

There were several legislative bills introduced during the 82nd Texas Legislative Session which all contained specific fee authorization language for the Commission. House Bill 1992 was passed which provides the Commission with broader based fee assessment

authority. This legislation was necessary as a result of the current Legislative Budget Board recommendation to fundamentally change the agency funding structure from primarily General Revenue sourced funding to a partial fee-for-services funding model. The change will require the Commission to generate new revenue streams through fees for up to approximately 50% of future budgets to maintain all essential services.

The Commission's activities are focused not only on protecting the animal industries of Texas from disease threats, but also supporting consumer confidence that Texas' animals and products are safe, wholesome, and disease free. A disease free Texas livestock population also allows for enhanced marketability and less restrictive movement requirements, from both an interstate and international perspective.

FISCAL NOTE

The Herd Free Status Fee stands to generate an estimated \$40,000 per year at \$100.00 per herd status. This revenue projection is based on a review of historical participation in herd certification programs. Revenue in the first fiscal year is an expected \$25,000 due to a mid-year implementation.

Dr. Matt Cochran, Assistant Executive Director of Administration, Texas Animal Health Commission, has determined for the first five-year period the rule is in effect, there will be no significant additional fiscal implications for local government as a result of enforcing or administering the rule.

The Commission has evaluated the requirements and determined that there is not an adverse economic impact associated with levying these fees, relative to the disease mitigation and risk management provided by consistent inspection and monitoring of the livestock populations in question. Livestock producers can benefit from the increased biosecurity and marketability that herd status conveys by implementing what amounts to verifiable 'best-practices'.

PUBLIC BENEFIT NOTE

Dr. Cochran has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be disease surveillance, control, enhanced marketability, quality assurance, and the related relative freedoms of commerce both intra and interstate. Herd disease-free certification is voluntary implementation of verifiable biosecurity best practices, and contributes to a healthier state herd. Disease free herds also mean smoother commerce and related cost-efficiencies that should translate to the public.

LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rule will not have a deleterious impact on local economies.

TAKINGS ASSESSMENT

The agency has determined that the proposed governmental action will not affect private real property. This proposed rule is an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting of disease, and treatment, in accordance with Title 4 TAC <*>59.7, and is, therefore, compliant with the Private Real Property Preservation Act in Texas Government Code, Chapter 2007.

REQUEST FOR COMMENT

Comments regarding the proposed amendments may be submitted to Carol Pivonka, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0721 or by e-mail at “comments@tahc.state.tx.us.”

STATUTORY AUTHORITY

The amendments are proposed under the following statutory authority as found in Chapter 161 of the Texas Agriculture Code. Under §161.060, “[t]he commission may charge a fee, as provided by commission rule, for an inspection made by the commission”. During the 82nd Texas Legislative Session, House Bill 1992 was passed which provides the Commission with broader based fee assessment authority. HB 1992 amends §161.060 which will allow the Commission to set and collect a fee for most services provided, including: 1) inspecting animals or facilities; 2) obtaining samples from animals for disease diagnostic test; 3) testing animals for disease; 4) disease prevention, control/eradication and treatment efforts; 5) services related to the transport of livestock; 6) control and eradication of ticks and other pests; and 7) any other service for which the Commission may incur a cost.

The Commission is also vested by statute, §161.041(a), with the requirement to protect all livestock, domestic animals, and domestic fowl from disease. The Commission is authorized, by §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock. If the Commission determines that a disease listed in §161.041 of this code or an agent of transmission of one of those diseases exists in a place in this state among livestock, or that livestock are exposed to one of those diseases or an agent of transmission of one of those diseases, the Commission shall establish a quarantine on the affected animals or on the affected place. That is found in §161.061. Section 161.112 provides that the Commission may establish rules regarding the tests, immunization, and dipping of animals at livestock markets.

As a control measure, the Commission by rule may regulate the movement of animals. The Commission 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. That is found in §161.054. That authority is found in §161.048. A person is presumed to control the animal if the person is the owner or lessee of the pen, pasture, or other place in which the animal is located and has control of that place; or exercises care or control over the animal. That is under §161.002.

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

33.5. Herd Disease Free Status Fees

(a) The Commission is assessing a fee for the following programs:

- (1) Requirements for Certified Brucellosis Free Herd for Cattle (See §35.3 of this title (relating to Brucellosis in Cattle)).
- (2) Initial Validation and Revalidation of Individual Swine Herd (See §35.48 of this title (relating to Brucellosis in Swine)).
- (3) Requirements for Certified Brucellosis Free Cervidae Herd (See §35.82 of this title (relating to Brucellosis in Cervidae)).
- (4) Requirements for Certified Brucellosis Free Herd of Goats (See <*>35.62 of this title (relating to Brucellosis in Goats)).
- (5) CWD Herd Status Plans for Cervidae (See <*>40.3 of this title (relating to Chronic Wasting Disease)).
- (6) Accredited Herd Plan for Cattle (See <*>43.2 of this title (relating to Tuberculosis in Cattle and Bison)). A herd must meet the standards of the Uniform Methods and Rules (UM&R) as provided in Part IV.
- (7) Accredited Herd Plan for Goats (See <*>43.11 of this title (relating to Tuberculosis in Goats)).
- (8) Herd Status Plans for Cervidae (See <*>43.22 of this title (relating to Tuberculosis in Cervidae)).
- (9) Trichomoniasis Herd Certification Program--Breeding Bulls (See <*>38.8 of this title (relating to Trichomoniasis)).
- (10) Pseudorabies Qualified and Monitored Herd Plans for Swine (See <*>55.5 of this title (relating to Pseudorabies in Swine)).

(b) The fee is \$100.00 and is due upon submitting an application or application for renewal for a Herd Disease Free program.

(c) The fee is due in full in order to issue a certificate and provide a herd a disease free status.