

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 53, which is entitled "Market Regulations". The proposed amendments are for the purpose of amending §53.4 entitled "Market Identification" to require that livestock markets tag specific species of cattle with permanent identification as well as ensure that the information is recorded.

The Commission recently announced that effective August 1, 2011, government subsidized Brucellosis testing at all Texas livestock markets will be discontinued, due to a lack of funding available to pay for future testing. The Commission will no longer enforce the requirement that all test eligible (adult) cattle be Brucellosis tested for a change of ownership within Texas. Although the Commission will no longer enforce the requirement for Brucellosis testing of adult cattle, cattle producers were encouraged to still identify animals that were age eligible for testing.

Historically, all Texas cattle leaving a market have had a USDA official eartag in place because they were brucellosis tested there or elsewhere. The official identification of cattle (usually with a metal eartag) is not completely linked to brucellosis testing, however Commission and USDA rules require official identification on all cattle tested, but they also require the market to record existing official ID's on any adult cattle presented for sale, all dairy cattle prior to movement, any bulls involved with the Trichomoniasis program (including virgins) and Mexican origin event cattle. Also, the Commission has a requirement that all dairy cattle moving intrastate are required to be officially identified. This was put in place to help Texas dairies from being unknowingly exposed to out of state dairy cattle that would prevent the Commission from tracing exposed or suspect cattle back to herds of origin. This is particularly important for out of state dairy cattle that end up in Texas. The cessation of the Brucellosis testing of cattle and the associated lack of identification is causing the Commission to propose an identification requirement at livestock markets.

USDA's Animal and Plant Health Inspection Service (APHIS) is proposing regulations to establish minimum national official identification and documentation requirements for the traceability of livestock moving interstate. They currently have their rule proposal out for comments. Comments must be received on or before November 9, 2011. Under this proposed rule, unless specifically exempted, livestock belonging to species covered by this rulemaking that are moved interstate would have to be officially identified and accompanied by an interstate certificate of veterinary inspection or other documentation. The proposed regulations specify approved forms of official identification for each species, but would allow the livestock covered under this rulemaking to be moved interstate with another form of identification, as agreed upon by animal health officials in the shipping and receiving States or Tribes.

Also, USDA recently released a 130-page report entitled "*Assessment of Pathways for the Introduction and Spread of Mycobacterium bovis in the United States*". This is an assessment on the pathways for the introduction and spread of bovine tuberculosis (TB) in the United States. The report indicates that a lack of a national animal identification program leaves the U.S. vulnerable to containing disease outbreaks and puts the U.S. at

risk of shutting down commerce if there is a significant disease outbreak.

With the federal regulation proposal for identification of specific species moving interstate and the issuance of a national report indicating that lack of identification could negatively impact commerce in the event of a significant disease outbreak, both support the fact that the Commission is proposing a requirement to help support and protect our state's cattle industry. This amendment will require that all livestock markets identify each head of sexually intact cattle that are parturient or postparturient, or 18 months of age or older; all dairy cattle (all cattle breeds typically used to produce milk or other dairy products for human consumption); and all cattle and bison used for rodeos, recreational events, shows or exhibitions, with an official approved eartag. Also, the amendment will require that the market record the identification in a manner prescribed by the Commission.

FISCAL NOTE

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 supplies required for tagging cattle as proposed are readily available at livestock markets, and new tags are available from the USDA at no extra charge. There will be some cost associated with the labor required for actually tagging, as well as recording the documentation that correlates the applied backtag with the eartag of a tag-eligible animal. The actual cost of this process will vary some from market to market, but the described documentation is similar to that which was required with mandatory brucellosis testing. Having a reasonable level of traceability will result in cost savings in the long run, as disease exposures and sources will be more readily identified; saving unrelated animals, facilities, ranchers, and brokers the time and cost of having to review their records and have their animals tested.

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 sustained disease surveillance, control, enhanced marketability, quality assurance, and the related relative freedoms of commerce both intra and interstate.

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 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. Specifically, §161.112 provides the Commission with the authority to adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets. 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, by §161.054, testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. 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.

53.4. Market Identification

(a) The market shall identify each head of sexually intact cattle, that are parturient or postparturient or 18 months of age or older, all dairy cattle (all cattle breeds typically used to produce milk or other dairy products for human consumption), and all cattle and bison used for rodeos, recreational events, shows or exhibitions, ~~tested~~ at the market with an official United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services approved eartag and backtag. The market shall record the identification along with all the information required in ~~supply this information to the accredited veterinarian prior to testing as provided in~~ §53.5(a) 35.2(e)(3) of this Chapter ~~title~~ (relating to Market Recordkeeping General

~~Requirements~~) and in a manner prescribed by the Commission.

(b) The market shall identify each sow and boar over six months of age consigned to the market with an official United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services approved identification backtag. The market shall record the backtag numbers for each consignment.