

## **EXPLANATION OF PROPOSED RULE**

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 35 entitled "Brucellosis". The Commission is proposing to remove the Brucellosis test requirement and to add a requirement that cattle be identified when there is a change of ownership.

The Commission ceased to enforce the requirement for change of ownership Brucellosis testing because of insufficient funds to supplement the cost of testing at livestock markets. This became effective on August 1, 2011. For that reason, the agency is amending the rule to no longer require testing. Historically, cattle that were tested for brucellosis had permanent official identification applied (such as ear tags) and recorded at the time of the testing. This reality was a significant asset to the agency's ability to successfully track or trace down cattle as needed for all disease programs, not just brucellosis. The identification capability was also lost at the time the testing requirement was no longer enforced. For that reason, the Commission is also proposing to require that all cattle that are parturient or post parturient or 18 months of age and older, except steers and spayed heifers, changing ownership within Texas shall be officially identified with Commission approved permanent identification.

The Commission believes that it is in the best interest of the state's cattle industry to develop and implement a minimal identification requirement in order to maintain a surveillance standard that supports the full completion of the Brucellosis eradication program as well as other on-going disease eradication or surveillance efforts. This requirement was enforced prior to August 1, 2011, and though the testing requirement is proposed to be halted, the need for permanent identification for traceability reasons is still relevant. With an increased dependence on brucellosis testing at slaughter, and an increase in tuberculosis prevalence nationwide, the need for permanent identification is more critical than ever.

## **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 state or local government as a result of enforcing or administering the rule. A component of this rule change is removal of required first point brucellosis testing, and there is no negative fiscal impact for this change in a singular context. The supplies required for tagging cattle as proposed are readily available to producers and other parties who will apply official ID, and according to the federal adt rule, new tags will be available from the USDA at no extra charge. The necessity of official ID also creates an opportunity for provision of ID application by a third party for a nominal fee. The actual cost of tagging will vary some depending on the situation. 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. The cost of disease is tied in large part to trade-

dependent animal/product value, and disease traceability mitigates the negative effect that animal disease has on trade.

### **PUBLIC BENEFIT NOTE**

Dr. Cochran also has determined that for each year of the first five (5) 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 impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission.

### **TAKINGS ASSESSMENT**

The agency has determined that the proposed governmental action will not affect private real property. The proposed amendment 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. The Commission is 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 authority is found in §161.061.

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 authority is found in §161.054. An agent of the Commission is entitled to stop and inspect a shipment of animals or animal products being transported in this state in order 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 noncommunicable disease. That authority is found in §161.048.

Section 161.005 provides that the Commission may authorize the executive director or another employee to sign written instruments on behalf of the Commission. A written instrument, including a quarantine or written notice signed under that authority, has the same force and effect as if signed by the entire Commission. No other statutes, articles, or codes are affected by the amendments.

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#### **35.4. Entry, Movement, and Change of Ownership**

(a) Requirements for cattle from foreign countries without comparable brucellosis status that enter and remain in Texas. (Note: Cattle from foreign countries with comparable brucellosis status would enter by meeting the requirements for a state with similar status.)

(1) Permit requirement. Sexually intact cattle must obtain an "E" permit from the Texas Animal Health Commission prior to moving to a destination in Texas other than direct to slaughter, quarantined feedlot or designated pens. The permit number must be entered on the Importation Certificate (VS Form 17-30) and a copy of that certificate forwarded to the Commission's office in Austin immediately following issuance.

(2) Branding requirements.

(A) Sexually intact cattle destined for a quarantined feedlot or designated pen must be "S"-branded prior to or upon arrival at the quarantined feedlot or designated pen.

(B) Spayed heifers shall be identified by branding prior to entry as specified in §35.1 of this title (relating to Definitions).

(3) Vaccination requirement. Nonvaccinated sexually intact female cattle between four and 12 months of age entering for purposes other than immediate slaughter or feeding for slaughter in a quarantined feedlot or designated pen shall be placed under quarantine on arrival and officially brucellosis vaccinated as outlined in §35.2(m) of this title (relating to General Requirements). The quarantine may be released after meeting test requirements.

(4) Testing requirements for bulls entering for purposes other than immediate slaughter or feeding in a quarantined feedlot or designated pen. Bulls entering for purposes other than immediate slaughter or feeding in a quarantined feedlot or designated pen shall be tested at the port of entry into Texas under the supervision of the port veterinarian, and placed under quarantine and retested 120 to 180 days after arrival. The quarantine will be released following a negative brucellosis test.

(5) Testing requirements for females entering for purposes other than immediate slaughter or feeding in a quarantined feedlot or designated pen. All sexually intact female cattle entering for purposes other than immediate slaughter or feeding for slaughter in a quarantined feedlot or designated pen shall be tested at the port of entry into Texas under the supervision of the port veterinarian, and placed under quarantine on arrival and retested for brucellosis in no less than 120 days nor more than 180 days after arrival for release of the quarantine; however, if the sexually intact female cattle have not had their first calf prior to the 120 to 180 day post entry test, the quarantine will not be released until a second negative test for brucellosis is conducted no sooner than 30 days after the animal has had its first calf and the second negative test has been confirmed.

(6) Testing requirements for sexually intact cattle moving directly to a quarantined feedlot or designated pen. All sexually intact cattle destined for feeding for slaughter in a quarantined feedlot or designated pen must be tested at the port of entry into Texas under the supervision of the port veterinarian. These cattle must be "S"-branded prior to or upon arrival at the quarantined feedlot or designated pen, and may move to the quarantined feedlot or designated pen only in sealed trucks with a VS 1-27 permit issued by a representative of TAHC or USDA personnel.

(7) Responsibility for costs. All costs of calfhood vaccination, testing, and retesting shall be borne by the owner.

(b) Requirements for cattle entering Texas from other states.

(1) Vaccination. All non vaccinated female cattle between four and 12 months of age shall be officially vaccinated prior to entry. Exceptions to these vaccination requirements are:

(A) Female cattle entering for purposes of shows, fairs and exhibitions and returning to their original location.

(B) Female cattle moving within commuter herds.

(C) Spayed heifers.

(D) Female cattle from free states

(E) Female cattle from other than free states shall be vaccinated as follows:

(i) Entering from an out-of-state farm of origin will be accompanied by a waybill to a Texas market, a feedlot for feeding for slaughter, or direct to slaughter. These cattle may be vaccinated at the market at no expense to the state prior to leaving the market and be moved freely. If these cattle are not vaccinated at the market, then they shall be consigned from the market only to a feedlot for feeding for slaughter or direct to slaughter, accompanied by an "S" permit. If consigned to a feedlot, they shall also be "F" branded high on the tail-head prior to or upon entering the feedlot.

(ii) Entering from an out-of-state livestock market to a Texas livestock market, a feedlot for feeding for slaughter or direct to slaughter will be accompanied by an "S" brand permit or certificate of veterinary inspection. Individual identification is not required. These cattle may be vaccinated at no expense to the state prior to leaving the market and be moved freely. If these cattle are not vaccinated at the market, then they shall be consigned from the market only to a feedlot for feeding for slaughter, or direct to slaughter, and accompanied by an "S" permit. If consigned to a feedlot, they shall also be "F" branded high on the tail-head prior to or upon entering the feedlot.

(iii) Entering from any out-of-state location and destined for a Texas premise may enter on a calfhood vaccination permit and must be vaccinated at no expense to the state within 14 days after arriving at the premise of destination.

(2) Testing. All non-quarantined cattle that are parturient or post parturient or that are 18 months of age and over (as evidenced by the loss of the first pair of temporary incisor teeth), except steers and spayed heifers entering Texas:

(A) shall be moved directly from:

(i) a class free state or area; or

(ii) a certified free herd; or

(iii) a commuter herd as defined in these sections; or

(B) Cattle not from class free states or areas, certified brucellosis free herds, or commuter herds shall be "S"-branded and moved directly to a quarantined feedlot, to designated pens, or to slaughter, accompanied with an "S" permit, or moved directly from a farm of origin to a USDA specifically approved livestock market to be "S"-branded and moved directly to a quarantined feedlot, to designated pens, or to slaughter accompanied with an "S" permit; or

(C) shall be tested negative one or more times as described in this subparagraph:

(i) cattle from a Class "A" state or area shall:

(I) be tested negative within 30 days prior to entry; or

(II) be moved directly from a farm of origin to a USDA specifically approved livestock market for a negative test prior to sale;

(ii) cattle from a class "B" state or area shall:

(I) be tested negative within 30 days prior to entry, accompanied with an "E" permit, and held under quarantine for a negative retest 45-120 days at a farm, ranch, or feedlot; or

(II) be moved directly from a farm of origin to a USDA specifically approved livestock market for a negative test and held under quarantine for a negative retest 45-120 days after sale to a farm, ranch, or feedlot.

(c) Change of ownership within Texas. ~~This requirement will be dependent upon the Commission having sufficient supplemental funding for testing at the livestock market. Two (2) months before the funds will be depleted the agency will provide notice that the requirement will cease to be enforced on a specific date.~~

(1) Vaccination. It is recommended that all female cattle between four and 12 months of age being purchased or sold for use in grazing, breeding, or dairying operations be officially vaccinated.

(2) ~~Testing~~ **Identification**. All cattle that are parturient or post parturient or 18 months of age and older except steers and spayed heifers changing ownership within Texas **shall be officially identified with an official eartag or other form of official permanent identification as approved by the Commission.:**

- ~~(A) originate from a certified free herd; or~~
- ~~—— (B) be tested negative by the seller within 30 days prior to sale; or~~
- ~~—— (C) consigned to a livestock market and tested negative prior to sale; or~~
- ~~—— (D) consigned to a slaughter establishment for testing or blood collection.~~

(d) Movement to Mexico. All cattle 18 months of age and older except steers and spayed heifers must be tested negative within 120 days prior to export to Mexico for slaughter. Steers, spayed heifers, and feedlot finished bulls and heifers are not required to be tested prior to export. Test results must be recorded on the Certificate of Veterinary Inspection.