

The Texas Animal Health Commission (Commission) proposes new §49.6, Piroplasmosis: Area or County Test, in Chapter 49, which is entitled “Equine”. The new section authorizes the Executive Director to issue an order which will classify an area or a county as high risk for holding equine exposed or positive for Piroplasmosis.

Equine Piroplasmosis is a disease of horses and other equine caused by the protozoa *Theileria equi* or *Babesia caballi*. A number of species of ticks are capable of transmitting the disease. At least one species, *Amblyomma cajennense*, is endemic to South Texas and several other southern states. The disease may also be spread between horses by unsafe animal husbandry practices such as sharing needles or equipment that is contaminated with blood. While Piroplasmosis can be a fatal disease, many horses may display vague signs of illness, such as fever, inappetence or jaundice. Equine Piroplasmosis is endemic in many countries around the world. It is considered a foreign animal disease in the United States, though sporadic outbreaks have occurred.

In October 2009, a ranch horse in South Texas was diagnosed with Equine Piroplasmosis. Laboratory results indicated the mare was infected with *Theileria equi*. Additional testing of horses on this ranch revealed a high percentage to be positive for the disease. Additional cases of Piroplasmosis were disclosed in this area of South Texas and in other parts of the state and country through testing of horses that had spent time on the affected ranch. A small number of cases outside the immediate vicinity of the ranch, but in the general area are believed to have been caused by tick transmission from other horses in an infested pasture. Testing for movement has also disclosed positive horses in two other populations in the U.S. unrelated to the South Texas ranch, Quarter Horse racehorses and horses imported into the United States prior to 2006.

A disease investigation is conducted each time a Piroplasmosis affected horse is disclosed. A recent investigation of two such horses indicated possible exposure to other horses in a common pasture in Kenedy County. Forty-nine horses were tested in the pasture, and nine horses owned by five individuals were found positive for the disease. It is uncertain how these horses became infected. Given that the disease is spread by ticks and this area has a high population of these competent vectors, it is probable that horses used on local ranches for day work became infected and then exposed other horses in the same pasture. It is also possible that an infected imported horse or QH racehorse shared the pasture and introduced infection to the other horses through tick transmission. Establishment of a high risk area and subsequent testing of resident equine would determine the disease status of horses in the area, and help assure the Texas equine population is free of Piroplasmosis.

FISCAL NOTE

Ms. Debbie Metzler, Director of Financial Services, Texas Animal Health Commission, has determined for the first five-year period the rule is in effect, there will be no additional fiscal implications for state or local government as a result of enforcing or administering the rule. An Economic Impact Statement (EIS) is required if the proposed rule has an adverse economic effect on small businesses. The agency has evaluated the

requirements and determined that there is not an adverse economic impact on the equine industry and therefore there is no need to do an EIS. The purpose of the rule is to ensure that positive or reactor equine for this disease are identified in a manner which allows others with equine to be aware that the animal is positive and therefore able to ensure that there is a reduced risk of exposure to their horse or other horses. Implementation of this rule poses no significant fiscal impact on small or micro-businesses.

PUBLIC BENEFIT NOTE

Ms. Metzler 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 the ability of the Commission to quickly and efficiently require testing of equine located in an area which is a high risk for being exposed to Piroplasmosis and therefore, help protect other equine in the state from being exposed to Piroplasmosis.

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. This proposed rule is an activity related to the handling of animals, including requirements for testing, movement, inspection, identification, reporting disease, and treatment, in accordance with 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 new section is 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 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 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 161.057 provides the Commission by rule may prescribe criteria for classifying areas in the state for disease control. The criteria must be based on sound epidemiological principles. The Commission may prescribe different control measures and procedures for areas with different classifications. In subsection (b), the Commission by rule may designate as a particular classification an area consisting of one or more counties.

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 proposal.

49.6. Piroplasmiasis: Area or County Test.

(a) Definitions:

(1) High risk area or county -- An area or county that is epidemiologically judged to have a high probability for equine having or developing Equine Piroplasmiasis.

(2) Hold Order -- A document restricting movement of a herd, unit, or individual animal pending the determination of its Piroplasmiasis disease status.

(3) Individual herd test plan -- A written plan developed between the Commission and the owner for testing one or more equine for Piroplasmiasis, and the management of any positive or exposed equine.

(b) Order to Test Equine in a High Risk County or Area for Piroplasmiasis. The Executive Director of the Commission may issue an order for equine to be tested in a high risk area or county based on sound epidemiological principles for disease detection, control, and eradication. The epidemiological criteria used for designating an area or county as high risk may include the presence of disease vectors (ticks), multiple positive animals in the area, and common husbandry and animal use practices that could lead to disease exposure.

(c) The order shall contain the following elements:

(1) The epidemiological criteria for which the order is being issued.

(2) A description of the area or county determined to be high risk that enables a person to identify the area and determine if a premise(s) is included in the area.

(3) A statement that movement of equine is prohibited, if the Executive Director determines the threat of disease spread warrants such action.

(4) Any exceptions, terms, conditions, or provisions prescribed under this chapter must be stated in the order.

(5) State the class of persons authorized by the Commission or the Executive Director to issue certificates or permits permitting movement.

(6) Any authorized movement certificate or permit must be issued in conformity with the requirements stated in the quarantine notice:

(A) The Executive Director may provide for a written certificate or written permit authorizing the movement of equine from locations where the equine have been restricted.

(B) The certificate or permit must be issued by a veterinarian or other person authorized by the Commission to issue a certificate or permit.

(d) If the order prohibits the movement of any equine until tested negative for the disease, the Executive Director may prescribe:

(1) any exceptions;

(2) terms;

(3) conditions; or

(4) provisions that the Executive Director considers necessary or desirable to promote the objectives of this chapter or to minimize the economic impact of the equine without endangering those objectives or the health and safety of other equine.

(e) Testing Procedures:

(1) All equine located or maintained in an area shall be presented for testing. An individual herd test plan will be developed if a test date is not established within a reasonable time as determined by the Executive Director.

(2) All equine to be added to the herd shall be tested prior to commingling with the herd.

(3) All stray equine found in the area shall be presented for testing by the caretaker of the property where located.

(4) Equine identified as positive shall be removed in accordance with <*>49.5 of this chapter (relating to Piroplasmosis: Testing, Identification of Infected Equine).

(f) Publication of Notice. The Executive Director shall give notice of the order:

(1) by publishing notice in a newspaper published in the county in which the quarantine is established; or

(2) by delivering a written notice to the owner or caretaker of the animals or places to be quarantined.

(g) Procedure to Protest the Individual Herd Test Plan. A person may protest an initial test or a herd plan for testing their equine for Piroplasmosis after consultation with the state or federal veterinarian assigned to the testing:

(1) To protest, the herd owner must request a meeting, in writing, with the Executive Director of the Commission within 15 days of receipt of the herd plan or notice of an initial test and set forth a short, plain statement of the issues that shall be the subject of the protest, after which:

(A) the meeting will be set by the Executive Director no later than 21 days from receipt of the request for a meeting;

(B) the meeting or meetings shall be held in Austin; and

(C) the Executive Director shall render his decision in writing within 14 days from date of the meeting.

(2) Upon receipt of a decision or order by the Executive Director which the herd owner wishes to appeal, the herd owner may file an appeal within 15 days in writing with the chairman of the commission and set forth a short, plain statement of the issues that shall be the subject of the appeal.

(3) The subsequent hearing will be conducted pursuant to the provisions of the Administrative Procedure and Texas Register Act, and Chapter 32 of this title (relating to Hearing and Appeal Procedures).

(4) If the Executive Director determines, based on epidemiological principles, that immediate action is necessary, the Executive Director may shorten the time limits, as set out in paragraph (1)(A) and (B) of this subsection, to not less than five days. The herd owner must be provided with written notice of any time limits so shortened.