

The Texas Animal Health Commission (commission) proposes amendments to §41.9, concerning Vacation and Inspection of a Premise, in Chapter 41, which is entitled “Fever Ticks”. The purpose of this amendment is to add a requirement that all cattle maintained in the Permanent Quarantine Zone, as defined in §§41.14 - 41.22 of this chapter, must be identified with permanent official identification and must be presented annually for inspection.

The Texas Cattle Fever Tick Eradication Program (program) is undergoing some changes in order to make it more effective in the efforts to eradicate the Texas Cattle Fever Ticks. The program in the last year has implemented the use of individual herd plans. An individual herd plan is a written disease management plan that is developed with the herd or land owner(s) and/or their representative(s), and a State or Federal Designated Fever Tick Epidemiologist to eradicate fever ticks or potential exposure to fever ticks from an affected herd or property. The herd plan will include appropriate treatment frequencies, treatments to be employed, and any additional disease management or herd management practices deemed necessary to eradicate fever ticks from the herd in an efficient and effective manner.

FISCAL NOTE

Mr. Sami Chadli, Director of Administration and Finance, 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 rules. 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 and therefore, there is no need to do an EIS. Implementation of this rule poses no significant fiscal impact on small or micro-businesses.

PUBLIC BENEFIT NOTE

Mr. Chadli, 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 to have herd management practices of annual inspection and the use of identification as an effective and necessary action to control and eradicate fever ticks from the herd in an efficient and effective manner.

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 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 4 TAC §59.7, and are, therefore, compliant with the Private Real Property Preservation Act in Government Code, Chapter 2007.

REQUEST FOR COMMENT

Comments regarding the proposal 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 167 of the Texas Agriculture Code. Section 167.003 provides for general powers and duties of the commission to eradicate fever ticks and provides authority for adopting the necessary rules to fulfill those duties. Section 167.004 authorizes the commission by rule to define what animals can be classified as exposed to ticks. Section 167.006 authorizes the commission to designate for tick eradication any county or part of a county that the commission believes contains ticks. Section 167.007 authorizes the commission to conduct tick eradication in the free area. Section 167.021, entitled "General Quarantine Power" provides that "[t]he commission may establish quarantines on land, premises, and livestock as necessary for tick eradication." Section 167.022, entitled "Quarantine of Tick Eradication Area" provides the commission authority to designate a county or part of a county for tick eradication. Section 167.023, entitled "Quarantine of Free Area" provides the commission authority to establish quarantine in the Free Area. Section 167.024, entitled "Movement In or From Quarantined Area" provides the requirement to obtain appropriate authorization and compliance with the requirements prior to movement. Section 167.032 provides that the commission may restrict movement of commodities that are capable of carrying ticks.

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. 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.

Section 161.007 provides that if a veterinarian employed by the commission determines that a communicable disease exists among livestock, domestic animals, or domestic fowl or on certain premises or that livestock, domestic animals, or domestic fowl have been exposed to the agency of transmission of a communicable disease, the exposure or infection is considered to continue until the commission determines that the exposure or infection has been eradicated through methods prescribed by rule of the commission. 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.

41.9. Vacation and Inspection of a Premise.

(a) Vacation of premise. Upon the removal of all livestock from a premise, the premise remains classified as before for the period shown on Table I (Pasture Vacation Schedule, South of Highway 90) or Table II (Pasture Vacation Schedule, North of Highway 90), whichever is applicable. The starting date is the date of the first clean dipping during which 100% of the livestock on the premise have been dipped and continued on an official dipping schedule until removed from the premise. The premise will be reclassified to a Check Premise, as provided by subsection (b) of this section, upon the expiration of the time shown in Tables I (Pasture Vacation Schedule, South of Highway 90) or II (Pasture Vacation Schedule, North of Highway 90), whichever is applicable. The Check Premise restrictions will be released when determined by the commission that the premise has no infestation.

(b) Required inspection of premise. An infested premise, exposed premise, or adjacent premise will be inspected every 14 days by an authorized representative of the commission. The 14-day interval may be extended due to circumstances that prevent the inspection. A check premise will be inspected when deemed necessary by an authorized representative of the commission.

(c) Required scratch inspection of livestock. The owner or caretaker of livestock on any premise must present them to be scratch inspected at any time specified by notice from an authorized representative of the commission.

(d) Free-ranging wildlife and exotic animals that are found on vacated pastures or check premises and which are capable of hosting fever ticks shall be treated by methods approved by the Commission and for the length of time specified by the Commission.

(e) All livestock maintained in the permanent quarantine zone as defined by §§41.14 - 41.22 of this chapter shall be gathered and presented annually for inspection in the presence of an authorized representative of the Commission. All of these animals shall be identified with a permanent and official identification device recognized by the Commission.