

The Texas Animal Health Commission (commission) proposes amendments to §35.4, concerning Entry, Movement, and Change of Ownership, in Chapter 35, which is entitled “Brucellosis”. The purpose of the amendments is to remove the current permanent official identification requirement for sexually intact adult cattle changing ownership and to change the entry requirements for sexually intact cattle entering Texas from the states of Idaho, Montana, and Wyoming due to the risk of brucellosis, which is prevalent in the Greater Yellowstone Area (GYA) of those states.

The commission recently adopted identification requirements that all sexually intact cattle that are parturient or post parturient or 18 months of age and older, changing ownership shall be officially identified with commission-approved permanent identification. The commission is proposing to remove the identification requirements for cattle and move any identification requirements to a new chapter for the purpose of establishing the standards for livestock under the federal animal disease traceability program.

The commission is also proposing to change the brucellosis regulations to require an entry permit and a post entry test for all breeding cattle from the states of Idaho, Montana, and Wyoming. In view of the continued occurrence of brucellosis infection disclosed in domestic cattle, elk and bison in the states of Wyoming, Montana, and Idaho that border Yellowstone National Park, otherwise known as the GYA, the commission is proposing bovine brucellosis entry regulations for breeding cattle from these three states. Analysis of the United State Department of Agriculture Veterinary Services October (USDA-VS) 2012 review of the GYA states disclosed various weaknesses in the biosecurity plans for cattle movements from the Designated Surveillance Area (DSA), even though all three states are considered “Free” of brucellosis by USDA. Test-eligible cattle (sex/age requirements vary between the states) within the DSA of all three states are allowed movement out of the DSA with one negative test within 30 days, which appears to qualify these animals for interstate shipment without restrictions. Information gathered during the USDA-VS review and more recent information on elk population dynamics raises great concern about the ability of the GYA states’ Brucellosis Management Plans to adjust quickly enough to prevent spread of disease. The cessation of comprehensive national and state brucellosis surveillance puts Texas at risk of not being able to quickly detect brucellosis if introduced from these states.

The commission is proposing that all sexually intact females and breeding bulls over 18 months of age entering Texas from Idaho, Montana, and Wyoming be held under restriction until tested negative for bovine brucellosis no less than 60 days and no more than 120 days after entry. Female cattle under 18 months of age (heifers) or adult females that have not calved (pre-parturient) must test negative no less than 30 days nor more than 90 days after calving (post parturient). All testing will be at the owner’s expense. All cattle described above requiring a post entry test must also receive an entry permit issued in advance by the commission.

## **FISCAL NOTE**

Ms. Larissa Schmidt, 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. 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**

Ms. Schmidt has also determined that for each year of the first five years the rule is in effect, the public benefit will be to protect the Texas cattle industry from any undue risk of exposure to brucellosis.

### **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 amendments address 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 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. That subsection also provides that the commission also is authorized to adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

Section 161.056 provides that in order to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, the commission may develop and implement an animal identification program that is consistent with the USDA's National Animal Identification System. Also, subsection (c) provides that the commission may require the use of official identification numbers assigned as part of the animal identification program for animal disease control, animal emergency management, and other commission programs.

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 161.061 provides that if the commission determines that a disease listed in §161.041 of this code or an agency of transmission of one of those diseases exists in a place in this state or among livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl, or that a place in this state where livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl are exposed to one of those diseases or an agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place.

Chapter 163 has statutory authority for Brucellosis control. Section 163.002, entitled “Cooperative Program”, provides that “In order to bring about effective control of bovine brucellosis, to allow Texas cattle to move in interstate and international commerce with the fewest possible restrictions, and to accomplish those purposes in the most effective, practical, and expeditious manner, the commission may enforce this chapter and enter into cooperative agreements with the United States Department of Agriculture.”

Also, §163.066 provides “As a control measure, the commission by rule may regulate the movement of cattle. The commission may restrict the intrastate movement of cattle even though the movement of the cattle is unrestricted in interstate or international commerce. The commission may require testing, vaccination, or another procedure that is epidemiologically sound before or following the movement of cattle.”

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

#### **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.

(7) Responsibility for costs. All costs of calthood 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.

(3) Requirements for cattle entering Texas from Idaho, Wyoming, and Montana.

(A) All breeding bulls and sexually intact female cattle entering Texas for purposes other than immediate slaughter or feeding for slaughter in a feedlot shall be tested for brucellosis 60 to 120 day post entry.

(B) Sexually intact female cattle entering Texas that have not calved must be held until tested negative 30 to 90 days after calving (post parturient).

(C) Non vaccinated sexually intact female cattle between four and 12 months of age entering Texas for purposes other than immediate slaughter or feeding for slaughter shall be officially brucellosis vaccinated prior to entry as provided in paragraph (1) of this subsection. The vaccination exception in paragraph (1)(D) of this subsection does not apply to cattle entering Texas from Idaho, Wyoming, and Montana.

(D) All cattle must also meet the applicable requirements contained in Chapter 51 of this title (relating to Entry Requirements). All breeding bulls and sexually intact female cattle shall obtain an entry permit from the commission as provided for in §51.2 of this title (relating to General Requirements).

(c) Change of ownership within Texas.

~~(4) 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) 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 except:~~

~~(A) Commission personnel may exempt from the permanent identification requirement beef cattle presented for sale at a livestock market if, upon consultation with market ownership or management, it is determined that the animal's physical condition makes the handling required to apply permanent identification unsafe or injurious in nature.~~

~~(B) Beef cattle exempted from the permanent identification requirement under this subsection must be sold and consigned to a state or federally approved slaughter establishment and movement permitted by Commission representatives; or~~

(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.