

The Texas Animal Health Commission (commission) proposes a new Chapter 47, §§47.1 - 47.9 and §§47.11 - 47.15, concerning Authorized Personnel.

The commission contemporaneously proposes the repeal of the existing Chapter 47, concerning Approved Personnel. The purpose of the new chapter is to make substantial changes to the requirements of persons authorized to perform certain activities related to disease control, in response to the passage of House Bill (H.B.) 3569 during the 83<sup>rd</sup> Texas Legislative Session.

H.B. 3569 amended the Texas Agriculture Code to require a person, including a veterinarian, to be authorized by the commission in order to engage in an activity that is part of a state or federal disease control or eradication program for animals. In addition to the brucellosis program, existing disease control or eradication programs include, but are not limited to, tuberculosis, trichomoniasis, piroplasmosis, equine infectious anemia, chronic wasting disease, pseudorabies, and scrapie.

The new Chapter 47 includes two subchapters. Subchapter A, which is entitled “General Provisions,” includes provisions for all persons authorized by the commission to perform activities as part of a disease control or eradication program. The provisions include minimum standards for authorized personnel and establish application, training, and recordkeeping requirements. Subchapter A also includes grounds for suspending or revoking an authorized person’s status and the procedures that must be followed to proceed with such action.

Subchapter B, which is entitled “Brucellosis Program” includes the existing standards and requirements for authorized personnel performing activities that are part of the brucellosis control program. In addition, the commission proposes to amend the general requirements concerning adult cattle vaccination for brucellosis. As a result of the severe drought, a number of Texas cattle are moving or have been moved to other states. Some western states require brucellosis vaccination of cattle prior to entry. To assist producers in meeting those states' entry requirements, §47.12 allows authorized veterinarians to adult vaccinate cattle for brucellosis if commission protocols are followed. Previously, commission veterinarians and inspectors, and USDA veterinary medical officers and animal health technicians were the only persons authorized to vaccinate adult cattle.

The commission also proposes to amend the brucellosis calfhood vaccination requirements by removing the reference and tattoo requirements for *Brucella abortus* strain 19 vaccinates in the proposed §47.14. This is a conforming program change as *Brucella abortus* strain 19 is no longer authorized for routine use in the brucellosis control program.

## **FISCAL NOTE**

Ms. Larissa Schmidt, Director of Administration, Texas Animal Health Commission, has determined for the first five-year period the rules are in effect, there will be no significant 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 these rules 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 rules are in effect, the public benefit anticipated as a result of enforcing the rules will be uniformity in the state's animal disease control activities.

## **LOCAL EMPLOYMENT IMPACT STATEMENT**

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed rules 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 rules are 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 Texas 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.texas.gov".

## **SUBCHAPTER A. GENERAL PROVISIONS**

4 TAC §§47.1 - 47.9

## **STATUTORY AUTHORITY**

H.B. 3569 amended the Texas Agriculture Code, Chapter 161, by adding §161.0417, which requires a person, including a veterinarian, to be authorized by the commission in order to engage in an activity that is part of a state or federal disease control or eradication program for animals. H.B. 3569 authorizes the commission to adopt necessary rules for the authorization of such persons and, after reasonable notice, to suspend or revoke a person's authorization if the commission determines that the person has substantially failed to comply with Chapter 161 or rules adopted under that chapter. The bill entitles a person to a hearing before the commission or a hearing examiner appointed by the commission before the commission may revoke the person's authorization. The bill requires the commission to make all final decisions to suspend or revoke an authorization. The bill establishes that its provisions relating to authorized personnel for disease control do not affect the requirement for a license or an exemption under the Veterinary Licensing Act to practice veterinary medicine. H.B. 3569 also amended §161.0601(a) to clarify that the commission is authorized to charge a fee and provide for the issuance of electronic certificates of veterinary inspection by veterinarians.

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. Section 163.064 provides that only a person approved by the commission may perform testing and vaccinating for brucellosis, regardless of whether the person is a veterinarian.

As a control measure under §161.054, 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 through §161.048 may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. 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.

Under §161.081, the commission by rule may regulate the movement of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country. Also, under that section the commission by rule may provide the method for inspecting and testing animals before and after entry into this state. The commission by rule may provide for the issuance and form of health certificates and entry permits. The rules may include standards for determining which veterinarians of this state, other states, and departments of the federal government are authorized to issue the certificates or permits.

Section 161.101 requires a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report the existence of the certain diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

Under §161.112, the commission may adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases. Section 161.113 provides that if the commission requires testing or vaccinations at a market, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The commission may adopt rules requiring permits for moving exotic livestock and exotic fowl from livestock markets as necessary to protect against the spread of communicable diseases.

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

#### **47.1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Accredited veterinarian--A veterinarian approved by USDA under the provisions of Title 9, Part 161, Code of Federal Regulations, to perform specified functions required by cooperative state-federal disease control eradication programs.

(2) Authorized personnel--

(A) Veterinarians and inspectors employed by the commission;

(B) USDA-APHIS, VS veterinary medical officers and animal health technicians;

(C) Veterinarians who:

(i) are licensed to practice veterinary medicine in Texas; and

(ii) are accredited by USDA-APHIS, VS for the State of Texas; and

(iii) have satisfactorily completed Texas Animal Health Commission disease control or eradication program training or provide documentation to the executive director that they have satisfactorily completed substantially similar disease control or eradication program training;

(D) Veterinarians' technicians and/or employees who have satisfactorily completed the Texas Animal Health Commission disease control or eradication program training or provide documentation to the Executive Director that they have satisfactorily completed substantially similar disease control or eradication program training; and

(E) For the Chronic Wasting Disease (CWD) program, individuals who have satisfactorily completed Texas Animal Health Commission CWD disease control or eradication program training or provide documentation to the executive director that they have satisfactorily completed substantially similar CWD disease control or eradication program training.

(3) APHIS--The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(4) Commission--The Texas Animal Health Commission.

(5) Disease control or eradication program--Any state or federal disease control or eradication program for animals.

(6) Executive Director--The Executive Director of the Texas Animal Health Commission or any individual authorized to act for the Executive Director.

(7) False sample--An adulterated sample or a sample that was collected from an animal other than the animal indicated on the test document.

(8) Issue--The distribution, including electronic transmission, of an official document that has been signed.

(9) Official document--Any certificate, form, record, report, chart, tag, band, or other identification, required by the commission or USDA for use by an authorized person performing authorized functions under this chapter. This includes, but is not limited to a certificate of veterinary inspection, vaccination charts and test documents.

(10) Sign--For an authorized person to put his or her signature in his or her own hand, or by means of an approved digital signature, on an official document. No official document is signed if:

(A) Someone other than the authorized person has signed it on behalf or in the name of the authorized person, regardless of the authority granted them by the authorized person; or

(B) If any mechanical device, other than an approved digital signature, has been used to affix the signature.

(11) Veterinarian-in-Charge--The veterinary official of APHIS who is assigned by the USDA Administrator to supervise and perform the official work of APHIS in a State or group of States.

(12) VS--The Veterinary Services of the United States Department of Agriculture.

(13) Veterinarian's technician or employee--An authorized person who works under the supervision of an authorized veterinarian unless specifically exempted under these rules, or rules of the Texas Board of Veterinary Medical Examiners as provided in Title 22 of the Texas Administrative Code, Part 24, Chapter 573 entitled Supervision of Personnel, to perform certain procedures under general supervision.

## **47.2. Requirements and Application Procedures.**

### (a) Authorized Personnel:

(1) An individual shall be authorized by the commission to perform certain activities, as designated by the commission, for disease control or eradication programs.

(2) An individual shall be authorized by the commission in order to receive, complete and issue official documents.

(3) An authorized person shall receive commission approval and certification for each disease control or eradication program the authorized person will perform program activities.

(4) Except as provided by subsection (c) of this section, an authorized person shall not perform program activities in disease control or eradication program until the person receives written authorization from the commission.

### (b) Application for authorized personnel status:

(1) An individual shall apply for authorized personnel status by completing an application and submitting it to the commission. In completing the application, the individual shall designate the disease control or eradication program(s) for which the individual will perform program activities.

(2) Applicants shall certify, on the application, that the applicant is able to perform all program activities and has received commission training for each disease control or eradication program the individual designates.

(3) Application for authorized personnel status shall be made on a form provided by the commission.

(4) An authorized person shall notify the commission within 30 days of any change in the information provided as part of the application.

### (c) Approved personnel requirements and application procedure:

(1) An individual with approved personnel status for brucellosis, tuberculosis, trichomoniasis or chronic wasting disease shall apply for authorized personnel status by completing an application and submitting it to the commission.

(2) Upon submitting an application for authorized personnel status to the commission, an individual with approved personnel status shall have authorized personnel status for the specific disease control or eradication program(s) for which the person received approved personnel status.

(3) The commission shall notify approved personnel of the requirement to submit an application for authorized personnel status.

(4) An individual with approved personnel status as of March 1, 2014, may perform program activities in the specific disease control or eradication program for which the individual received approved personnel status until September 1, 2014, or until such time the individual is notified of the requirement to submit an application for authorized personnel status, whichever is later.

(5) An individual with approved personnel status shall apply for authorized personnel status, as provided by subsection (b) of this section, for any disease control or eradication program for which the individual has not received approved personnel status.

## **47.3. Duration and Additional Training Requirements.**

(a) Authorized personnel status shall be valid until such time that the authorization is suspended or revoked, contingent upon the authorized person completing all additional training required by the commission.

(b) In determining whether additional training shall be required, the Executive Director may consider changes in technology, treatments, procedures and programs.

(c) If additional training is required for authorized personnel in a particular disease control or eradication program, the commission will provide notice to affected authorized personnel of the additional training requirement.

#### **47.4. Standards for Authorized Personnel.**

This rule sets the minimum standards for personnel who perform certain activities that are part of a disease control or eradication program pursuant to Texas Agriculture Code §161.0417.

(1) Authorized personnel shall:

(A) Recognize all commission required animal identification systems applicable to the disease control or eradication programs for which the authorized person performs activities;

(B) Apply all animal identification for commission required animal identification systems applicable to the disease control or eradication programs for which the authorized person performs activities;

(C) Properly complete official documents;

(D) Submit official documents to the commission in a timely manner as prescribed by commission or USDA rule;

(E) Recognize and report clinical signs and lesions of diseases applicable to the disease control or eradication program for which the authorized person performs activities;

(F) Properly collect and ship sample specimens, as prescribed by the commission, to an appropriate laboratory for testing with complete and accurate paperwork;

(G) Properly perform testing for the disease control or eradication program for which the authorized person performs activities;

(H) Perform official tests, inspections, treatments, and vaccinations and shall submit specimens to designated laboratories as prescribed by the commission;

(I) Immediately report to the commission diagnosed or suspected cases of a communicable animal disease for which the commission has a disease control or eradication program;

(J) Immediately report to the commission the existence of a disease listed in §45.2 of this title (relating to Duty to Report);

(K) Take such measures of sanitation as are necessary to prevent the spread of communicable diseases of animals by the authorized person while performing program activities;

(L) Keep him or herself currently informed on state rules governing the movement of animals and on procedures applicable to disease control and eradication programs for which the authorized person performs activities;

(M) Secure and properly use all official documents and approved digital signature capabilities used in his or her work and take reasonable care to prevent the misuse thereof; and

(N) Immediately report to the commission the loss, theft, or deliberate or accidental misuse of an official document or digital signature used in the authorized person's work.

(2) An authorized person shall not issue, or allow to be used, any official document, until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the authorized person has conducted and the dates of issuance and expiration of the document.

#### **47.5. Recordkeeping.**

- (a) An authorized person shall maintain official documents at the authorized person's place of business.
- (b) Official documents shall be complete and legible.
- (c) Official documents shall be maintained for a minimum of five years from the original date of the document.
- (d) The commission may inspect and copy official documents maintained by an authorized person.

#### **47.6. Grounds for Suspension or Revocation.**

- (a) Automatic termination of authorized personnel status occurs with any one of the following events:
  - (1) the authorized person is separated from employment with the commission or Veterinary Services when such person's authorized personnel status is contingent upon employment with the commission or Veterinary Services;
  - (2) the authorized person is a veterinarian's technician or employee who is separated from employment with an accredited veterinarian;
  - (3) the license of an authorized veterinarian issued by the Texas State Board of Veterinary Medical Examiners is revoked or suspended by that board; or
  - (4) an authorized veterinarian's accreditation is revoked by Veterinary Services.
- (b) Suspension of an authorized veterinarian's accreditation by Veterinary Services will result in suspension or revocation of authorized personnel status.
- (c) Suspension or revocation of authorized personnel status may be made upon a determination that one or more of the following violations have occurred:
  - (1) submitting false samples;
  - (2) collecting a sample in a manner that contravenes a commission rule;
  - (3) failing to report test results;
  - (4) distributing vaccine to persons or entities not authorized by the commission;
  - (5) using out of date vaccine;
  - (6) failing to identify animals as required by commission rule;
  - (7) failing to submit official documents within the time prescribed by a commission or USDA rule;
  - (8) falsely reporting that animals have been vaccinated or tested;
  - (9) submitting samples that are adulterated or that have insufficient quantity to conduct confirmation testing;
  - (10) falsifying official documents;
  - (11) performing work in a commission disease control or eradication program for which the person is not authorized to perform program activities;
  - (12) failing to maintain official documents as required by commission rule;
  - (13) failing to pay an obligation owed to the commission;
  - (14) submitting false reimbursement claims for testing or vaccinating;
  - (15) failing to comply with the "Standards for Authorized Personnel" as set forth in §47.4 of this subchapter;
  - (16) failing to comply with a rule promulgated under this chapter relating to standards for authorized personnel; or
  - (17) violating a rule of the commission.

#### **47.7. Procedure for Suspension or Revocation.**

(a) Upon completion of the investigation of an alleged violation, the commission shall notify the authorized person by certified mail of the facts or conduct alleged that may warrant commission action regarding the person's authorized personnel status and invite the authorized person to an informal conference.

(b) An authorized person shall have 20 days from the date of receipt of the notice to respond to the commission or waive his or her attendance at the informal conference. If an authorized person fails to respond to the commission's notice an informal conference will be scheduled. The authorized person must receive notice of the conference at least seven days prior to the conference. The conference will be held at the Texas Animal Health Commission office in Austin.

(c) At the conclusion of the informal conference, the Executive Director shall determine whether a violation occurred and take appropriate action. Such action may include no action, warning, suspension, or revocation. The Executive Director shall notify the authorized person by certified mail of his or her decision within 15 days after the informal conference.

(d) If the Executive Director determines that a violation has occurred and that disciplinary action and/or a penalty is warranted, the Executive Director will advise the licensee of the alleged violations and offer the person a settlement in the form of an agreed order that specifies the disciplinary action and/or penalty. A suspension may be in effect for a period of up to one year. An order of suspension shall identify specific conditions or prohibitions relative to the suspension. A revocation may be in effect for a period of up to two years.

(e) An authorized person shall have 20 days from the date of the receipt of the decision to submit a written response accepting the settlement offer or requesting a hearing. The administrative hearing for the appeal will be held in Austin, pursuant to Chapter 32 of this title (relating to Hearing and Appeal Procedures).

(f) If the authorized person accepts the settlement offer by signing the agreed order, the agreed order will be docketed for commission action at the next regularly scheduled commission meeting.

(g) The Executive Director may, upon written notice and pending final determination by the commission, summarily suspend a person's authorized personnel status when it is deemed necessary to protect the safety, health, and interest of the public. The Executive Director shall hold an informal conference within 14 days of the date of the suspension to determine if formal action should be initiated against the authorized person. The authorized person must receive notice of the conference at least 72 hours prior to the conference.

#### **47.8. Restoration of Authorized Personnel Status.**

(a) Authorized personnel status will be automatically restored after a period of suspension contingent upon the person complying with all conditions or prohibitions relative to the suspension.

(b) Application for authorized status may be made at the expiration of a period of revocation. The applicant must meet all prerequisites for initial authorization.

#### **47.9. Settlement of Contested Case.**

(a) A contested case settlement is an agreement between the commission and the respondent in a contested case which provides for a resolution different from the sanction originally proposed in the commission's notice.

(b) Contested case settlement negotiations may be in person, by phone, or through written communication, at the commission's discretion, as necessary to resolve issues related to a particular contested case.

(c) Contested case settlement may incorporate any combination of authorized sanctions, additional training, or remedial actions as an alternative to the originally proposed sanction.

(d) All contested case settlements are subject to approval by the Executive Director and the commission. The Executive Director and the commission shall state in writing the reasons for rejecting a proposed settlement.

(e) A contested case settlement is final and binding upon a respondent at the time the respondent or respondent's authorized agent signs the settlement agreement, and upon the commission when approved by the commission through a signed order.

(f) If a contested case settlement is rejected by the Executive Director or the commission, the contested case will be resolved through additional settlement negotiations consistent with the reasons for the rejection, by stipulation to the commission's originally proposed sanction or combination of sanction, or through a contested case hearing.

## SUBCHAPTER B. BRUCELLOSIS PROGRAM

### 4 TAC §§47.11 - 47.15

H.B. 3569 amended the Texas Agriculture Code, Chapter 161, by adding §161.0417, which requires a person, including a veterinarian, to be authorized by the commission in order to engage in an activity that is part of a state or federal disease control or eradication program for animals. H.B. 3569 authorizes the commission to adopt necessary rules for the authorization of such persons and, after reasonable notice, to suspend or revoke a person's authorization if the commission determines that the person has substantially failed to comply with Chapter 161 or rules adopted under that chapter. The bill entitles a person to a hearing before the commission or a hearing examiner appointed by the commission before the commission may revoke the person's authorization. The bill requires the commission to make all final decisions to suspend or revoke an authorization. The bill establishes that its provisions relating to authorized personnel for disease control do not affect the requirement for a license or an exemption under the Veterinary Licensing Act to practice veterinary medicine. H.B. 3569 also amended §161.0601(a) to clarify that the commission is authorized to charge a fee and provide for the issuance of electronic certificates of veterinary inspection by veterinarians.

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. Section 163.064 provides that only a person approved by the commission may perform testing and vaccinating for brucellosis, regardless of whether the person is a veterinarian.

As a control measure under §161.054, 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

through §161.048 may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. 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.

Under §161.081, the commission by rule may regulate the movement of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country. Also, under that section the commission by rule may provide the method for inspecting and testing animals before and after entry into this state. The commission by rule may provide for the issuance and form of health certificates and entry permits. The rules may include standards for determining which veterinarians of this state, other states, and departments of the federal government are authorized to issue the certificates or permits.

Section 161.101 requires a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report the existence of the certain diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

Under §161.112, the commission may adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases. Section 161.113 provides that if the commission requires testing or vaccinations at a market, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The commission may adopt rules requiring permits for moving exotic livestock and exotic fowl from livestock markets as necessary to protect against the spread of communicable diseases.

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

#### **47.11. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Calfhood Vaccination--Vaccination of female cattle between four and twelve months of age with an approved *Brucella* vaccine at the appropriate dosage.

(2) Card test permit--A permit issued by USDA-APHIS, VS to an authorized person certifying that card test training has been satisfactorily completed at a state-federal laboratory and that the individual is authorized to conduct the card test according to the requirements and standards for authorized personnel and the brucellosis laws and regulations.

(3) Discrepancy--Differing result between the card test performed by an authorized person and the card test performed by the state-federal laboratory.

(4) Official eartag--A Veterinary Services approved identification eartag that conforms to the nine-character alphanumeric national uniform eartagging system. It uniquely identifies each individual animal. The term includes the orange-colored eartag series used to identify calfhood vaccinates.

#### **47.12. General Requirements.**

This regulation sets the standards for personnel who perform work in the brucellosis control program pursuant to the Texas Agriculture Code, §§161.0417 and 163.064. Personnel may perform bovine brucellosis work in Texas as follows:

(1) Collecting and submitting blood samples. Only authorized personnel may collect and submit blood samples. Authorized personnel and employees of authorized veterinarians may apply official eartags and backtags and record individual identification on the test record.

(2) Performing the card test. Only authorized personnel who hold valid card test permits may conduct the card test.

(3) Vaccinating.

(A) Only authorized personnel may calftend vaccinate eligible heifers for brucellosis.

Authorized personnel employees of authorized veterinarians may affix vaccination eartags and record vaccinations on the vaccination certificate.

(B) Only commission veterinarians and inspectors, USDA veterinary medical officers and animal health technicians, and authorized veterinarians may adult vaccinate cattle for brucellosis.

Authorized veterinarians who vaccinate adult cattle shall follow commission protocols for adult vaccination.

(4) An authorized veterinarian's technician or other employee must work under the direct supervision of an authorized veterinarian while performing brucellosis work as permitted herein except an authorized employee who is only collecting blood samples on animals to be consigned directly from the ranch to slaughter and submitting them to the state/federal laboratory for testing may do so under general supervision. An authorized veterinarian's technician or other authorized employee may operate under the general supervision of an authorized veterinarian and may perform testing for brucellosis at a livestock market. The authorized veterinarian is responsible for assuring that authorized veterinarian's technicians and other employees working under his/her supervision comply with all commission regulations.

#### **47.13. Requirements for Brucellosis Testing.**

(a) Collecting samples.

(1) Individual blood collection devices shall be used for each animal.

(2) Each animal shall be individually identified by official eartag or backtag or individual registration tattoo or brand. The individual identification must be recorded on the test record to identify the corresponding blood sample.

(3) Tubes containing blood samples will be numbered in sequence. There will be a gap of one or more numbers between the last number assigned to a herd or unit and the first number assigned to the next herd or unit.

(b) Performing the card test.

(1) A clean pipette and stirrer shall be used for each sample tested.

(2) Positive and negative check samples will be kept available at all times to check antigen being used.

(3) Antigen will be kept refrigerated.

(4) Antigen will not be used past the expiration date shown on the bottle.

(5) Mechanical rockers will be used to rotate the card. Timers will be used to read results of the card test at four-minute intervals.

(6) The card test will be run in an area where the sample is protected from wind and blowing dust.

(7) The authorized person who ran the card test will record the results of the card test on the appropriate test document (4-54, 4-33, or Texas Animal Health Commission Certificate of Veterinary Inspection). Actual test results for all cattle tested will be recorded at the time of the test.

(c) Market testing.

(1) Each animal tested at a livestock market will be identified with an official eartag and official backtag at the time of blood collection. At the time of test, each official eartag and backtag number will be recorded on the 4-54 market test record.

(2) The authorized person will not conduct the card test at a livestock market until complete ownership information and backtag identification have been provided by the market.

(3) Livestock market card tests will be conducted in a designated area with sufficient lighting.

(4) The authorized person interpreting the card test will immediately report all positive test results to the state-federal market inspector by means of the completed 4-54 market test record.

(d) Submission of samples.

(1) Blood samples may be submitted to a state-federal laboratory without prior field card testing.

(2) All blood samples and corresponding test records will be mailed or delivered to a state-federal laboratory within 48 hours after collection. Blood samples may be placed in a mail depository Monday through Saturday. Samples that would normally be mailed on weekends in which a federal holiday is on Friday or Monday shall be refrigerated and mailed the following work day.

(3) The number of samples submitted for confirmation testing which are untestable because of adulteration, hemolysis or insufficient serum must not exceed 5.0% of samples submitted during the previous six-month period nor more than 30% in any one submission.

(4) There must be no more than three discrepancies in confirmation test results disclosed over a six-month period where the laboratory results are positive for samples that were reported negative by the individual conducting the test.

#### **47.14. Brucellosis Calfhood Vaccination Requirements.**

(a) Brucellosis vaccine will be refrigerated until administered in accordance with the label directions. Vaccine will not be used beyond the expiration date shown on the bottle.

(b) Each calfhood-vaccinated animal must be permanently identified as vaccinates by tattoo and by official vaccination eartag. If the animal is already identified with an official eartag before vaccination, an additional official eartag is not required. Vaccination tattoos must be applied to the right ear. For Brucella abortus strain RB 51 vaccinates the tattoo will include the United States Registered Shield and "V" which will be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the vaccination was done. Official vaccination (orange) eartags must be applied to the right ear. Individual animal registration tattoos or individual animal registration brands may be used for identifying animals in place of official eartags if the cattle and/or bison are registered by breed associations recognized by VS. Official calfhood vaccinates are allowed to be retattooed by an authorized veterinarian designated by the State Veterinarian, or by a Federal or State representative, provided that:

(1) The identification of the vaccinated animal(s) is verified by official records maintained in State or Federal offices;

(2) Prior approval for re-tattooing is obtained from the State Veterinarian; and

(3) The re-tattooing produces the original tattoo given at the time of vaccination.

(c) Vaccinations will be immediately recorded on a properly completed vaccination certificate. Completed vaccination certificates must be submitted to the commission within 14 days following vaccination.

#### **47.15. Suspension or Revocation of Brucellosis Authorized Personnel Status.**

Suspension or revocation of brucellosis authorized personnel status may be made upon a determination that violations including, but not limited to, the following have occurred:

- (1) providing card test kits or antigen to persons or entities not authorized by the commission;
- (2) knowingly performing calftuberculin vaccination on over-age heifers;
- (3) failing to identify vaccinated heifers as required by regulation;
- (4) failing to submit vaccination charts within 14 days following vaccination;
- (5) failing to submit test documents within seven days following testing;
- (6) submitting blood samples that are adulterated or hemolyzed or that have insufficient serum to conduct confirmation testing where the number of such samples exceeds 5.0% of samples submitted during the previous six-month period or 30% in any one submission;
- (7) having more than three discrepancies in confirmation test results over a six-month period;
- (8) submitting false claims for reimbursement for testing or vaccinating for brucellosis;
- (9) conducting the card test at a livestock market prior to receiving complete ownership information or backtag identification;
- (10) a violation listed in §47.6 of this chapter (relating to Grounds for Suspension or Revocation); or
- (11) violating a rule of the commission.