

The Texas Animal Health Commission (commission) proposes new §50.3, Cattle Identification, in Chapter 50, which is entitled “Animal Disease Traceability (ADT)”. The purpose of the new section is to establish identification requirements for cattle.

The United States Department of Agriculture (USDA) has amended its regulations and established minimum national official identification and documentation requirements for the traceability of livestock moving interstate. Under USDA’s rulemaking, unless specifically exempted, livestock belonging to species covered by the regulations must be officially identified and accompanied by an interstate certificate of veterinary inspection or other documentation. These regulations specify approved forms of official identification for each species, but allow the livestock covered under this rulemaking to be moved interstate with another form of identification, as agreed upon by animal health officials in the shipping and receiving States or Tribes. The federal rule provides for an approved tagging site, which is a premise where livestock moving interstate may be officially identified on behalf of their owner or the person in possession. Under the federal rule they must be officially approved by the state where located. The effective date of the USDA rule is March 11, 2013, and it is found in 9 CFR part 86.

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 is being proposed as part of the Brucellosis eradication program in order to achieve complete eradication of the disease. Identification helps the commission personnel to quickly locate at risk cattle, and also rule out herds that do not have the cattle in question. Quickly locating animals of interest can be critical to an effective disease response. For example, the first 24 hours of response when faced with a highly contagious disease such as Foot and Mouth disease has been proven to be the key in quickly allowing normal trade and marketability to resume. An efficient and accurate animal disease traceability system also helps reduce the number of animals potentially involved in an investigation. The mandatory identification system already in place in 2009 in the Texas dairy industry, allowed the commission to only test a portion of the state’s dairy cattle instead of all of them, when faced with a complex disease investigation resulting from a tuberculosis infected dairy in west Texas.

The USDA recently released a 130-page report entitled “*Assessment of Pathways for the Introduction and Spread of Mycobacterium bovis in the United States*”. The report indicates that a lack of a national animal identification program leaves the U.S. vulnerable to containing disease outbreaks and puts the U.S. at risk of shutting down commerce if there is a significant disease outbreak. Texas has historically been considered to have one of the best traceability systems to date due to the application of permanent official identification (eartags) of adult cattle at markets prior to August 1, 2011. The vulnerability increases daily with the cessation of the brucellosis identification process in conjunction with the stoppage of brucellosis testing.

Although Texas has been considered brucellosis free since 2008, two infected herds were disclosed in 2011. Texas is still considered at risk for more detection of the disease, as well as a risk for disclosing brucellosis test reactions in cattle due to swine brucellosis in the feral population. The presence of eartags on adult cattle will ensure that if a herd does need to be evaluated it can be done so quickly.

H.B. 2311 amends the current law relating to an animal identification program. Over the last three years, the Texas cattle industry has placed a renewed emphasis on controlling foreign animal diseases of concern. Intrastate and interstate animal identification plans have recently been developed and implemented at the federal and state levels for the purpose of establishing a means to enable the cattle industry and state and federal animal health officials to more rapidly and effectively respond to animal health emergencies.

H.B. 2311 clarifies that any state animal disease traceability program cannot be more stringent than any federal animal disease traceability program; repeals the penalty provisions that gave the commission the Class C misdemeanor authority for violations relating to animal identification; and repeals the subsection that references the use of specific identification numbers that the commission may consider in implementing an animal identification program. Additionally, the bill requires a two-thirds vote of the Commissioners to adopt any program more stringent than federal law.

The requirement as proposed is based on a change of ownership within Texas. Under the rule 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. That requirement does create an exception for movement to slaughter within seven days of the change of ownership. Cattle that are sold or consigned to move to a state or federally approved slaughter establishment within seven days of the change of ownership, where they are harvested within three days of arrival at the establishment, are exempt from the requirement.

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 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. The identification tags are available to producers and other parties who will apply official ID. The necessity of official ID for specific animals to move interstate 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, but the federal requirement allows for untagged animals to enter the state as an exception to the federal identification requirement which has afforded the cattle producer some reduced cost by not having them identified prior to movement.

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 anticipated as a result of enforcing the rule will be to have authorized tagging sites located in Texas and operating under the federal animal disease traceability system, which will provide 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.

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 is, 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.texas.gov”.

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 authority is found in §161.061.

H.B. 2311 was passed during the 83rd Texas Legislative Session and clarifies that any state animal disease traceability program cannot be more stringent than any federal animal disease traceability program; the bill requires a two-thirds vote of the commission’s board to adopt any program more stringent than federal law.

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 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 under §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 161.005 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. 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. Also, 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.

50.3. Cattle Identification.

(a) Change of ownership within Texas. 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 within seven days of the change of ownership.

(b) Cattle that are sold or consigned to move to a state or federally approved slaughter establishment within seven days of the change of ownership, where they are harvested within three days of arrival at the establishment, are exempt from the requirement of subsection (a) of this section.