

The Texas Animal Health Commission (commission) proposes amendments to §38.1, concerning Definitions, §38.2, concerning General Requirements, §38.3, concerning Infected Herds, and §38.8, concerning Herd Certification Program--Breeding Bulls, located in Chapter 38, which is entitled "Trichomoniasis".

The purpose of the amendments is to make changes to the Trichomoniasis testing and herd certification requirements.

Bovine Trichomoniasis (Trich) is a venereal disease of cattle caused by the protozoa *Tritrichomonas foetus*. The organism lives in the folds of the prepuce and internal sheath in bulls, and colonizes the vagina, cervix, uterus and oviducts of cows. It causes abortion and extended calving seasons. Bulls will remain persistently infected and spread infection from cow to cow during natural service; however, cows generally clear infection after prolonged sexual rest or after delivering a full term calf. Bulls over four years old are typically the main reservoir of infection in a herd; this is because older bulls often have deeper preputial folds (crypts) creating a more favorable environment for Trich.

The Trich control program is an industry driven initiative that was implemented in 2009. The concept includes an annual review by commission staff and interested stakeholder organizations of the program's rules and policies and to subsequently suggest non-binding recommendations to the commission. The Bovine Trich Working Group (TWG) met on April 17, 2014, to evaluate the effectiveness of current rules. The TWG discussed the program overview to date, the management of infected herds, entry requirements, and ultimately discussed the need for possible revisions to the program.

The TWG recommended adding testing requirements for a herd of origin when a bull from the herd is sold and found to be infected with Trich. It was also recommended to require testing requirements when a bull is separated from its unit of origin, such as when a bull is found on property not owned by the owner or caretaker of the bull, and that bull is found to be infected with Trich. Section 38.2 is being amended to include the TWG recommendations. Under the proposal, as applicable, a herd of origin, unit of origin and units where a separated positive bull is located will be placed under a hold order and officially tested for Trich. A unit will be determined epidemiologically by the commission.

The TWG also recommended allowing the commission to evaluate the effectiveness of a herd control plan for infected herds and allow the commission to continue or disapprove the herd plan based on the progress or lack of progress made with the infected herd. Section 38.3 is being amended to include this recommendation.

The last recommendation from the TWG was to require herds enrolled in the Trich Herd Certification Program to have perimeter fences that are adequate to prevent the ingress or egress of cattle. Section 38.8 is being amended to include the recommended fencing requirement.

In addition to the recommendations made by the TWG, changes are proposed to §38.1, entitled "Definitions" to ensure the Trich control program rules are more consistent with standard practices and federal traceability requirements. Section 38.1(17) is being amended to remove

“official Trich tags issued by the animal health official of the state of origin of imported bull” as a form of official identification. Section 38.1(18) is also being amended to clarify that for an “official trichomoniasis test” the test document is valid for 60 days provided the bull is isolated from female cattle at all times. Section 38.1(25) is being amended to add the same clarification that a certification by the breeder of a “virgin bull” is valid for 60 days provided the bull is isolated from female cattle at all times.

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 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 rules have an adverse economic effect on small businesses. The agency has evaluated the requirements and determined that there is not an adverse economic impact on cattle breeders or raisers. The purpose of the rules is to determine whether or not an infected animal exists in a herd or unit. If an undisclosed Trich positive bull is discovered in a herd, then the infected bull will spread the disease and infect other animals in the herd or unit. Also, if these undisclosed animals are infected and sold they will spread the disease to other herds and animals. The purpose of the rules is to control and prevent the spread of the disease which protects the Texas cattle industry. For these reasons, the commission has determined that there is not an adverse impact on these cattle raisers and breeders and there is no need to do an EIS. Implementation of this rule poses no significant fiscal impact on small or micro-businesses, or to individuals.

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 to ensure the testing and health status of exposed or affected cattle in a herd or unit, which protects the livestock industry in this state.

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 amendments 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 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) 719-0719 or by email at “comments@tahc.texas.gov”.

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 §161.041, entitled “Disease Control”, with the requirement to protect all livestock, domestic animals, and domestic fowl from disease.

Pursuant to §161.041(b), the commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl or exotic fowl. The commission may adopt any rules necessary to carry out the purpose of this subsection.

Pursuant to §161.048, entitled “Inspection of Shipment of Animals or Animal Products”, 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.

Pursuant to §161.054, entitled “Regulation of Movement of Animals”, 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.

Pursuant to §161.061, entitled “Quarantines”, if the commission determines that a disease listed in §161.041 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 agency of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place. The quarantine of an affected place may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen. The commission may establish a quarantine to prohibit or regulate the movement of (1) any article or animal that the commission designates to be a carrier of a disease listed in §161.041 or a potential carrier of one of those diseases, if movement is not otherwise regulated or prohibited; and (2) an animal into an affected area, including a county district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.

Pursuant to §161.046, entitled “Rules”, the commission may adopt rules as necessary for the administration and enforcement of this chapter.

Pursuant to §161.081, entitled “Importation of Animals”, the commission by rule may regulate the movement, including movement by a railroad company or other common carrier, of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country.

Pursuant to §161.005, entitled “Commission Written Instruments”, 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.

38.1. Definitions.

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

- (1) Accredited Veterinarian--A licensed veterinarian who is approved to perform specified functions required by cooperative state-federal disease control and eradication programs pursuant to Title 9 of the Code of Federal Regulations, Parts 160 and 161.
- (2) Affected Herd--Any herd in which any cattle have been classified as *Trichostrongylus axei* positive on an official test and which has not completed the requirements for elimination of the disease from the herd.
- (3) Cattle--All dairy and beef animals (genus *Bos*) and bison (genus *Bison*).
- (4) Certified Veterinarians--Veterinarians certified with, and approved by the commission ~~Commission~~ to collect Trichomoniasis samples for official Trichomoniasis testing and to perform any other official function under the Trichomoniasis program.
- (5) Commission--The Texas Animal Health Commission.
- (6) Executive Director--The Executive Director of the Texas Animal Health Commission or his designee.
- (7) Exempt Cattle (from testing requirements)--Cattle that have been physically rendered incapable of intromission at a facility recognized by the commission ~~TAHC~~.
- (8) Exposed Cattle--Cattle that are part of an affected herd or cattle that have been in contact with Trichomoniasis infected cattle.
- (9) Herd--
 - (A) All cattle under common ownership or supervision or cattle owned by a spouse that are on one premise; or
 - (B) All cattle under common ownership or supervision or cattle owned by a spouse on two or more premises that are geographically separated, but on which the cattle have been interchanged or where there has been contact among the cattle on the different premises. Contact between cattle on the different premises will be assumed unless the owner establishes otherwise and the results of the epidemiological investigation are consistent with the lack of contact between premises; or
 - (C) All cattle on common premises, such as community pastures or grazing association units, but owned by different persons. Other cattle owned by the persons involved which are located on other premises are considered to be part of this herd unless the epidemiological investigation establishes that cattle from the affected herd have not had the opportunity for direct or indirect contact with cattle from that specific premises. Approved feedlots and approved pastures are not considered to be herds.
- (10) Herd Test--An official test of all non-virgin bulls in a herd.

- (11) Hold Order--A document restricting movement of a herd, unit, or individual animal pending the determination of disease status.
- (12) Infected Cattle--Any cattle determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as infected.
- (13) Infected Herd--The non-virgin bulls in any herd in which any cattle have been determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as being infected.
- (14) Movement Permit--Authorization for movement of infected or exposed cattle from the farm or ranch of origin through marketing channels to slaughter or for movement of untested animals to a location where the animals will be held under hold order until testing has been accomplished.
- (15) Movement Restrictions--A "Hold Order," "Quarantine," or other written document issued or ordered by the commission ~~Commission~~ to restrict the movement of livestock or exotic livestock.
- (16) Negative--Cattle that have been tested with official test procedures and found to be free from infection with Trichomoniasis.
- (17) Official Identification/Officially Identified--The identification of livestock by means of an official identification device, official eartag, registration tattoo, or registration brand, or any other method approved by the commission ~~Commission~~ and/or Administrator of APHIS that provides unique identification for each animal. Official identification includes ~~included~~ USDA alpha-numeric metal eartags (silver bangs tags), 840 RFID tags, 840 bangle tags, official breed registry tattoos, and official breed registry individual animal brands ~~and official Trich tags issued by the animal health official of the state of origin of imported bulls.~~
- (18) Official Trichomoniasis test--A test for bovine Trichomoniasis, approved by the commission ~~Commission~~, applied and reported by TVMDL or any other laboratory approved ~~classified~~ as an official laboratory by the commission ~~Commission~~. The test document is valid for 60 days, provided the bull is isolated from female cattle at all times, and may be transferred within that timeframe with an original signature of the consignor.
- (19) Official Laboratory Pooled Trichomoniasis test samples--Up to five samples individually collected by a veterinarian and packaged and submitted to an official laboratory which can then pool the samples.
- (20) Positive--Cattle that have been tested with official test procedures and found to be infected with Trichomoniasis.
- (21) Quarantine--A written commission ~~Commission~~ document or a verbal order followed by a written order restricting movement of animals because of the existence of or exposure to Trichomoniasis. The commission ~~Commission~~ may establish a quarantine on the affected animals or on the affected place. The quarantine of an affected place may extend to any affected area, including a county, district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen. The commission ~~Commission~~ may establish a quarantine to prohibit or regulate the movement of any article or animal that the commission designates to be a carrier of Trichomoniasis and/or an animal into an affected area, including a county district, pasture, lot, ranch, farm, field, range, thoroughfare, building, stable, or stockyard pen.
- (22) Test-Eligible Cattle--All sexually intact non-virgin male cattle and all sexually intact male cattle which have erupting or erupted permanent incisor teeth (or older), which are being sold, leased, gifted or exchanged in the state of Texas for breeding purposes.
- (23) Trichomoniasis--A venereal disease of cattle caused by the organism *Tritrichomonas foetus*.

(24) TVMDL--The official laboratory for testing is the Texas A&M Veterinary Medical Diagnostic Laboratory.

(25) Virgin Bull--Sexually intact male cattle which have not serviced a cow and which are not more than 24 months of age as determined by the presence of the two permanent central incisors in wear or birth date on breed registry papers certified by the breeder; or not more than 30 months of age and certified by both the breeder based on birth date and confirmed by his veterinarian that the bull facility is sufficient to prevent contact with female cattle. The certification by the breeder is valid for 60 days, provided the bull is isolated from female cattle at all times, and may be transferred within that timeframe with an original signature of the consignor.

38.2. General Requirements.

(a) Test Requirements: All Texas origin bulls sold, leased, gifted, exchanged or otherwise ~~changing~~ ~~change~~ possession for breeding purposes in the State of Texas shall meet the following testing or certification requirements prior to sale or change of ownership in the state:

(1) Be certified as virgin, by the breeder or his representative, on and accompanied by a breeder's certificate of virgin status; or

(2) If from a herd of unknown status (a herd that has not had a whole herd test), be tested negative on three consecutive culture tests conducted not less than seven days apart or one RT-PCR test conducted within 60 days of sale or movement, be held separate from all female cattle since the test sample was collected, and be accompanied by a Trichomoniasis ~~Trich~~ test record showing the negative test results.

(b) Identification of Bulls: All bulls certified as virgin bulls shall be identified by an official identification device or method on the breeder's certification of virgin status. All bulls tested for Trichomoniasis shall be officially identified ~~by an official identification device or method~~ at the time the initial test sample is collected. ~~Official identification includes: Official Alpha-numerical USDA metal ear tags (bangs tags), Official 840 RFID tags, Official 840 flap or bangle tags, and Official individual animal breed registry tattoo or breed registry individual animal brands.~~ That official identification shall be recorded on the test documents prior to submittal.

(c) Confirmatory Test: The owner of any bull which tests positive for Trichomoniasis may request in writing, within five days of the positive test, that the commission ~~Commission~~ allow a confirmatory test be performed on the positive bull. If the confirmatory test is positive the bull will be classified as infected with Trichomoniasis. If the confirmatory test is negative the bull shall be retested in not less than seven days to determine its disease status. If the confirmatory test reveals that the bull is only infected with fecal trichomonads, the test may be considered negative.

(d) Untested Bulls: Bulls presented for sale without a breeder's certification of virgin status or a Trichomoniasis ~~Trich~~ test record showing negative test results may:

(1) Be sold for movement only directly to slaughter; or

(2) Be sold for movement to an approved feedlot and then moved to slaughter or transported back to a livestock market under permit, issued by commission ~~Commission~~ personnel, to be sold in accordance with this chapter; or

(3) Be sold and moved under a Hold Order to such place as specified by the commission ~~Commission~~ for testing to change status from a slaughter bull. Such bulls shall be officially individually identified with a permanent form of identification prior to movement, move to the

designated location on a movement permit, and be held in isolation from female cattle at the designated location where the bull shall undergo three consecutive culture tests at least seven days apart or one RT-PCR test. If the results of any test are positive, all bulls in the herd of origin of the positive bull shall be placed under hold order and tested as provided by subsection (e) of this section. The positive ~~the~~ bull shall be classified as infected and be permitted for movement only directly to slaughter or to a livestock market for sale directly to slaughter; or

(4) Be sold and moved to another physical location under permit issued by commission ~~Commission~~ personnel, and then to a livestock market or location to be resold within seven days from the date of issuance. The bull cannot be commingled with female cattle during the seven days.

(e) Herd of Origin or Unit Testing:

(1) All bulls that are part of a herd of origin from which a bull is sold in accordance with subsection (d)(3) of this section and is found to be infected with Trichomoniasis shall be placed under hold order and officially tested for Trichomoniasis.

(2) All bulls that are part of a unit of origin, as epidemiologically determined by the commission, from which a bull becomes separated and that bull is found to be positive for Trichomoniasis shall be placed under a hold order and officially tested for Trichomoniasis. All bulls that are part of the unit on which the separated positive bull was located, as epidemiologically determined by the commission, shall also be placed under hold order and officially tested for Trichomoniasis.

(3) Officially tested, as used in this subsection, requires at a minimum three official culture tests conducted not less than seven days apart, or one official RT-PCR test. If the results of any test that are required by this subsection are positive, the herd shall be tested as provided by §38.3 of this chapter (relating to Infected Herds).

38.3. Infected Herds.

(a) Bulls that have been determined to be infected by culture or by RT-PCR test and/or by confirmatory RT-PCR test shall be placed under hold order along with all other non-virgin bulls in the bull herd. Infected bulls must be isolated from all female cattle from the time of diagnosis until final disposition or as directed by the commission ~~Commission~~. Breeding bulls which have been disclosed as reactors may be retested provided: the owners, or their agents initiate a request to the TAHC Regional Director where the bull is located; that retests are conducted within 30 days after the date of the original test; test samples for retests are submitted to the TVMDL [~~Texas Veterinary Medical Diagnostic Laboratory (TVMDL)~~] for testing; and the positive bull is held under quarantine along with all other exposed bulls on the premise. If they are retested, they must have two negative tests by RT-PCR ~~PCR~~ to be released within 30 days of the initial test.

(b) Positive bulls may be moved directly to slaughter or to a livestock market for sale directly to slaughter. In order to move, the bulls shall be individually identified by official identification device on a movement permit authorized by the commission ~~Commission~~ from the ranch to the market and from the market to the slaughter facility, or from the ranch directly to the slaughter facility. Movement to slaughter shall occur within 30 days from disclosure of positive test results (or confirmatory test results) or as directed by the commission ~~Commission~~.

(c) All bulls that are part of a herd in which one or more bulls have been found to be infected shall be placed under hold order in isolation away from female cattle until they have undergone at least two additional culture tests with negative results (not less than a total of three negative culture tests or two negative RT-PCR tests) within 60 days of the initial test unless handled in

accordance with subsection (d) of this section. All bulls remaining in the herd from which an infected bull(s) has been identified ~~must~~ ~~would have to~~ be tested two more times by culture or one more time by RT-PCR test. Any bull positive on the second or third test ~~shall~~ ~~would~~ be classified as positive. All bulls negative to all three culture tests or both RT-PCR tests ~~shall~~ ~~would~~ be classified as negative and could be released for breeding.

(d) Breeding bulls that are part of a quarantined herd or a herd that is under a holder order and that tests negative to the first official Trichomoniasis test may be maintained with the herd if the owner or caretaker of the bulls develops a Trichomoniasis herd control plan with a certified veterinarian. The Trichomoniasis herd control plan shall require all breeding bulls to be tested annually with an official Trichomoniasis test and include other best management practices to control, eliminate and prevent the spread Trichomoniasis. The Trichomoniasis herd control plan, unless otherwise approved or disapproved by the commission, expires three years from the date the plan is signed by the herd owner or caretaker and the authorized veterinarian. Breeding bulls that are part of a Trichomoniasis herd control plan that expires or that is disapproved must be tested for Trichomoniasis as required by subsection (c) of this section.

~~(d) A quarantined herd with breeding bulls that tested negative on the initial test may be maintained with the herd if they develop a Trichomoniasis herd control plan, with the herd owner and their private veterinarian, that will address herd management practices to address this disease and have all breeding bulls tested annually. This will only be authorized for a maximum of three years, then all exposed bulls shall be tested in accordance with this section.~~

(e) When Trichomoniasis is diagnosed in female cattle or fetal tissue, ~~then~~ all breeding bulls associated with the herd will be restricted under a Hold Order for testing in accordance with this section.

38.8. Herd Certification Program--Breeding Bulls.

Enrollment Requirements. Herd owners who enroll in the Trichomoniasis Herd Certification Program shall sign a herd agreement with the commission and maintain the herd in accordance with the herd agreement and following conditions:

(1) (a) All ~~The owner of all~~ non-virgin breeding bulls shall ~~sign an agreement with the Commission and~~ be tested annually for T. foetus for three ~~(3)~~ consecutive years as required by the herd agreement following the adoption of this rule.

(2) (b) During the three ~~(3)~~ year inception period, all non-virgin breeding bulls that are sold with changes of ownership, leased, gifted, exchanged ~~rented~~ or otherwise change possession shall be tested for T. foetus within 30 days prior to such change in possession. The test ~~must~~ ~~will~~ be completed and test results known prior to the time a bull(s) is physically transferred to the receiving premises or herd.

(3) (c) Negative T. foetus bulls will be identified with ~~the~~ official identification.

(4) (d) All slaughter bulls removed from the herd ~~must~~ ~~will~~ be tested for T. foetus. The test may be performed at a slaughter facility if prior arrangement with a certified veterinarian and an appropriate agreement with the slaughter facility management is made.

(5) (e) Bovine females added to a certified herd shall not originate from a known T. foetus infected herd. Female herd additions must originate from a certified T. foetus free herd or qualify in one of the following categories:

(A) (1) calf at side and no exposure to other than known negative T. foetus bulls;

(B) (2) checked by an accredited veterinarian, at least 120 days pregnant and so recorded;

(C) ~~(3)~~ virgin; or

(D) ~~(4)~~ heifers exposed as virgins only to known negative T. foetus infected bulls and not yet 120 days pregnant.

(6) ~~(f)~~ Records must be maintained for all tests including all non-virgin bulls entering the herd and made available for inspection by a designated ~~designed~~ accredited veterinarian or state animal health official.

(7) ~~(g)~~ All non-virgin ~~non-virgin~~ bulls shall be tested for T. foetus every two ~~(2)~~ years after the initial three ~~(3)~~ year inception period ~~thereafter~~ to maintain certification status.

(8) Herd premises must have perimeter fencing adequate to prevent ingress or egress of cattle.

(9) All bulls originating from a Trichomoniasis Certified Free Herd that is maintained in accordance with this section and the herd agreement are exempt from the testing requirement found in §38.2 of this chapter (relating to General Requirements).