

The Texas Animal Health Commission (commission) proposes an amendment to §43.2, concerning General Requirements, and new §43.7, concerning Authorized Calf Ranch/Authorized Grower Facility, in Chapter 43, which is entitled “Tuberculosis”.

The purpose of the amendment to §43.2 is to put in place a recordation requirement for cattle that carry an M-Brand which indicates the animal has resided in Mexico. There are risks associated with Tuberculosis (TB) in roping/rodeo cattle imported from Mexico and the amendment will require that Mexican origin cattle be indicated as such on any certificate of veterinary inspection or test document issued by an accredited veterinarian.

The purpose of the new §43.7 is to aid business continuity through provisions to allow bovine TB-exposed heifers to eventually be returned to the dairy of origin for use as breeding cows, and for male calves to reap as close to full value as possible for calves originating from dairy herds under quarantine for TB. This concept may also be utilized for other diseases or conditions in the future as determined appropriate by the commission, even though the initial concept is derived for TB.

An Authorized Calf Ranch is a facility that may feed restricted cattle less than six months of age. An Authorized Grower Facility is a facility that may feed restricted cattle over six months of age. Restricted cattle are classified as such due to potential exposure to TB or other communicable diseases as defined by the commission. These facilities will establish necessary biosecurity protocols, testing standards, and other processes as approved by the commission to provide safeguards against disease spread while calves are raised for feeding or breeding use in drylot conditions.

The new rule provides for a designation agreement to be recognized as an Authorized Calf Ranch or Authorized Grower Facility indicating that the facility can meet the necessary standards to accept and manage restricted cattle. The agreement will contain standards and procedures which the facility must meet in order to be approved. The agreement will provide for the isolation of restricted animals, to prevent contact from any non-restricted animals within the facility through adequate fencing, geographic separation, consideration of pen drainage, and utilization of appropriate cleaning and disinfection processes between use of common facilities such as working chutes or sick pens. The use of common sick pens may also be prohibited. Other necessary protocols will include use of official identification; and maintenance of acceptable recordkeeping requirements, which will include adherence to defined protocols for all animals entering and leaving a facility. The restricted animals will also be subject to testing requirements based on sex and risk of exposure from the herd of origin. The number of TB tests required, as well as who will conduct the testing (commission personnel and/or private veterinarians at owner expense), will be based upon the unique herd risk considerations and level of risk, as determined by the commission.

The new rule provides for creation of an individual herd plan(s) between the approved facility and the commission for the prevention of the spread of TB within a facility. A herd plan will be developed for an authorized calf ranch or an authorized grower facility and will be developed by a Designated Tuberculosis State-Federal epidemiologist in

consultation with the owner of the restricted cattle and his veterinarian (if so requested by the owner), and the calf ranch or grower facility management and their veterinarian.

The new rule also provides that the approved status must be renewed by the operator every two years, provided that the requirements specified in these regulations and the approved agreement continue to be met by the facility. If the Executive Director determines the authorized facility fails to comply with the agreement or these regulations, then he/she can rescind the agreement.

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 and, therefore, there is no need to do an EIS. The recordation requirements are minimal and focused on accredited veterinarians, and the calf ranch requirements are intended to have risk reduction measures in place that would allow a facility to handle those animals that are exposed to TB. Implementation of these rules 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 protect our livestock industry from exposure to TB by ensuring these animals are properly tested.

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 Government Code, Chapter 2007.

REQUEST FOR COMMENT

Comments regarding the proposal may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0721 or by email at "comments@tahc.state.tx.us".

STATUTORY AUTHORITY

The amendments are proposed under the following statutory authority as found in Chapters 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, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock. 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 §161.048, entitled "Inspection of Shipment of Animals or Animal Products", 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 §161.0415, entitled "Disposal of Diseased or Exposed Livestock", the commission by order may require the slaughter of livestock, under the direction of the commission, or the sale of livestock for immediate slaughter. Pursuant to §161.044, entitled "Regulation of Livestock Movement from Stockyards or Railway Shipping Pens", the commission may regulate the movement of livestock out of stockyards or railway shipping pens and require treatment or certification of those animals as reasonably necessary to protect against communicable diseases. Pursuant to §161.046 entitled "Rules", the commission may adopt rules as necessary for the administration and enforcement of this chapter. Pursuant to §161.049 entitled "Dealer Records", the commission may require a livestock, exotic livestock, domestic fowl, or exotic fowl dealer to maintain records of all livestock, exotic livestock, domestic fowl, or exotic fowl bought and sold by the dealer. Pursuant to §161.0545, entitled "Movement of Animal Products", the commission may adopt rules that require the certification of persons who transport or dispose of inedible animal products, including carcasses, body parts, and waste material. The commission by rule may provide terms and conditions for the issuance, renewal, and revocation of a certification under this section.

Pursuant to §161.061, entitled "Establishment", 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 or 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. 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 §161.101, entitled “Duty to Report”, a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the diseases, if required by the commission, among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease.

Pursuant to §161.113, entitled “Testing or Treatment of Livestock”, if the commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not be required to pay the cost of fees charged for the testing or vaccination. And if the commission requires the dipping of livestock under this subchapter, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of the commission. Pursuant to §161.114, entitled “Inspection of Livestock”, an authorized inspector may examine livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market.

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

43.2. General Requirements.

(a) Tuberculosis: ~~This subchapter~~ ~~Subchapter A of this chapter~~ shall govern procedures for the prevention, surveillance, control, management and eradication of bovine tuberculosis in Texas. For the purpose of controlling and eradicating tuberculosis the following documents are incorporated by reference: The January 1, 2005, Edition of "Bovine Tuberculosis Eradication Uniform Methods and Rules" (UM&R) and the Code of Federal Regulations, Title 9, Parts 71, 77, and 161.

(b) Movement Restrictions: Whenever the Texas Animal Health Commission (Commission) has reason to believe that any livestock or exotic livestock have been exposed to or is infected with tuberculosis, that premises and all livestock and exotic livestock thereon shall have movement restricted, using either a "hold order" or "quarantine," subject to a determination or results of tuberculosis test conducted ~~conducted~~ by authorized personnel or as directed by the Designated Tuberculosis Epidemiologist or the Executive Director. Movement of livestock or exotic livestock under movement restrictions must be authorized by the Designated Tuberculosis Epidemiologist or the Executive Director and accompanied by a written permit. The permit will list:

- (1) the reactor tag number or official ear tag number in the case of reactor, suspect, or exposed livestock;
- (2) the owner's name and address;
- (3) origin and destination locations;
- (4) number of animals covered;
- (5) the purpose of the movement; and
- (6) if the animals are required to be shipped under seal then the permit should also show

the number on the seal. If a change in destination becomes necessary, a new permit must be issued by authorized personnel. No diversion from the destination on the permit is allowed.

(c) Official Tests: All official ~~tuberculosis~~ ~~tuberculosis's~~ tests shall be conducted by a designated personnel employed by the Commission, or the United States Department of Agriculture (USDA) or by an accredited veterinarian designated to perform approved tuberculosis test by the Executive Director of the Commission Each individual designated to conduct official tuberculin ~~tests~~ ~~test~~ shall meet a performance standard, as referenced in the UM&R - Appendix C; entitled "Performance Standards for Caudal Fold Tuberculin (CFT) Testing". Each individual authorized to conduct official CFT tests shall be in compliance with these standards for the CFT.

(d) Reporting: All official tests shall be reported on VS Form 6-22 and continuation sheet VS Form 6-22B and mailed to the Commission within seven days of reading the results. The information on the VS Form 6-22B, shall include:

- (1) the official individual identification;
- (2) the name and post office address of the owner;
- (3) the location of the premises and the animals;
- (4) the dates of injection and reading of the test;
- (5) the kind of test conducted;
- (6) the result of the test;
- (7) the reason for testing (i.e., ~~ie~~ Herd Accreditation, Sale or Show, Other); and;
- (8) the signature and accreditation number of the testing veterinarian.

(e) Identification. All animals tested must be permanently individually identified by an official identification device, an official registration tattoo or an official registration brand as specifically recognized or authorized by the commission.

(f) Tuberculin Test Interpretation, Classification, and Reporting Requirements.

(1) The site of administration of a tuberculin test shall be examined at 72 (+/- 6) hours following injection. Examination shall be made by visual observation and palpation. Observation without palpation shall constitute cause for removal of veterinary accreditation.

(2) Any animal with a visible or palpable response at the site of injection shall be classified as a Suspect by the testing veterinarian.

(3) Any animal classified as a Suspect shall:

(A) be reported by the testing veterinarian to the appropriate Area Office within 48 hours following examination; and

(B) ~~the~~ ~~The~~ reporting veterinarian shall inform the owner or caretaker that the herd is restricted from movement until a determination of disease status has been made by the Commission.

(g) Disposition of Suspects and Reactors

(1) Reactors shall remain on the premise where they were disclosed until a State or Federal permit for movement has been obtained. Movement for immediate slaughter shall be within 15 days of classification and shall be directly to a slaughtering establishment where approved State or Federal inspection is maintained. Alternatively, the animals may be destroyed on the premises or in a postmortem examination facility under the direct supervision of a State or Federal animal health veterinarian to ensure that a proper postmortem examination is conducted; that the carcasses are disposed of by deep burial or burning, and that the facilities are adequately cleaned and disinfected.

- (2) Herds containing suspects to the CFT test shall be quarantined until the suspect animals are:
- (A) Negative to a CCT test; or
 - (B) Negative on the bovine interferon gamma assay; or
 - (C) Shipped, under permit, directly to slaughter in accordance with State and Federal laws and regulations with postmortem examinations conducted according to requirements outlined in paragraph (5) of this subsection.
- (3) Suspects to the CCT test must be:
- (A) Negative to a CCT retest 60 or more days after the previous CCT injection; or
 - (B) Shipped under permit directly to slaughter.
- (4) Animals positive on the bovine interferon gamma assay and classified as suspect must be:
- (A) Negative on a bovine interferon gamma assay retest conducted within 30 days of the CFT injection (the DTE or Regional Tuberculosis Epidemiologist must concur with the retest); or
 - (B) Shipped, under permit, directly to slaughter for postmortem examination.
- (5) Postmortem examinations shall be witnessed by a State or Federal animal health veterinarian and selected tissue specimens, to include any tissue with granulomatous appearing lesions and representative head and thoracic lymph nodes, must be submitted for laboratory examination.
- (h) Requirements on Dealer Recordkeeping: Any dealer must maintain records of livestock and exotic livestock that are purchased or sold. Such records shall show the buyer's and seller's name and address, county of origin, number of animals, and a description of each animal, including sex, age, color, breed, brand, and official identification. Records at auctions and commission firms shall show the delivery vehicle license number. These records must be maintained for a minimum of five (5) years. Such records must be made available to State or Federal animal health officials, upon request, during normal business hours.
- (i) Slaughter Plant Collections and Submissions: Slaughter plants for cattle are required to collect and submit diagnostic specimens for the purpose of testing for tuberculosis as directed by state or federal inspection personnel. The slaughter of cattle shall be conducted so that the carcass and any diagnostic specimens can be identified as being derived from a particular animal. Handling shall include, but is not limited to, the retention of official eartags, official backtags, herd identification ear tags, ear bangles, electronic implants, and other man made identifying devices affixed to the animal, in a way that correctly relates the diagnostic specimen to the carcass from which it was taken. All identification devices shall be included with the documentation submitted with a diagnostic specimen to an approved laboratory.
- (j) Retesting and release of movement restrictions.
- (1) Sale of feeder calves from quarantined herds will be restricted. Feeder calves under 12 months of age that have passed a CFT test within 60 days prior to movement may be "S" branded and permitted to move intrastate to an approved feedlot or approved pens in a feedlot.
- (2) Herds in which *Mycobacterium bovis* ~~*Mycobacterium bovis*~~ infection has been confirmed shall be depopulated; or shall remain under quarantine until all requirements of an individual herd plan have be completed in accordance with procedures prescribed in the UM&R

(3) Herds in which NGL reactor(s) only occur and no evidence of *Mycobacterium bovis* infection has been disclosed may be released from movement restrictions ~~movement restrictions~~ after a 60 day negative retest on the entire herd.

(4) Herds in which Suspect animal(s) are disclosed shall remain under movement restrictions until the Suspect(s) have been retested and classified negative, or are shipped direct to slaughter under permit and no evidence of *Mycobacterium bovis* ~~M. bovis~~ infection is disclosed. If animals are slaughtered as suspects but show no gross lesions and selected tissues, to include representative head and thoracic lymph nodes, are found negative on histopathology and bacteriological culture for *Mycobacterium bovis* ~~M. bovis~~ and a complete epidemiologic investigation, including a herd test of all eligible animals, fails to disclose evidence of infection with or exposure to bovine tuberculosis, the herd, with the concurrence of the DTE and Regional Tuberculosis Epidemiologist, may be considered free of bovine tuberculosis.

(k) A person may protest an initial test or a herd plan each herd classified as increased risk for Tuberculosis:

(1) To protest, the herd owner must request a meeting, in writing, with the Executive Director of the Commission within 15 days of receipt of the herd plan or notice of an initial test and set forth a short, plain statement of the issues that shall be the subject of the protest, after which:

(A) the meeting will be set by the Executive Director no later than 21 days from receipt of the request for a meeting;

(B) the meeting or meetings shall be held in Austin; and

(C) the Executive Director shall render his decision in writing within 14 days from date of the meeting.

(2) Upon receipt of a decision or order by the executive director which the herd owner wishes to appeal, the herd owner may file an appeal within 15 days in writing with the Chairman of the Commission and set forth a short, plain statement of the issues that shall be the subject of the appeal.

(3) The subsequent hearing will be conducted pursuant to the provisions of the Administrative Procedure and Texas Register Act, and Chapter 32 of this title (relating to Hearing and Appeal Procedures).

(4) If the Executive Director determines, based on epidemiological principles, that immediate action is necessary, the Executive Director may shorten the time limits to not less than five days. The herd owner must be provided with written notice of any time limits so shortened.

(l) Tuberculosis accredited herd. A herd must meet the standards of the Uniform Methods and Rules (UM&R) as provided in Part IV.

(m) Interstate Movement Requirements: See §51.8 of this title (relating to Cattle).

(n) Intrastate Movement of Dairy Cattle. All dairy cattle being transported within Texas shall be identified prior to movement with official identification device or identification device approved by the commission.

(o) Requirements for cattle originating from Mexico: Any certificate, form, record, report or chart issued by an accredited veterinarian for cattle that originate from Mexico, have resided in Mexico or are "M" branded, shall include the statement, "the cattle represented on this document are of Mexican origin."

43.7. Authorized Calf Ranch/Authorized Grower Facility.

(a) Definitions:

(1) Authorized Calf Ranch--A facility that is approved by the Executive Director of the commission for the feeding of restricted cattle under six months of age.

(2) Authorized Grower Facility--A facility that is approved by the Executive Director of the commission for feeding restricted cattle that are being raised for breeding or feeding purposes in drylot conditions over six months of age.

(3) Restricted animals--Animals determined to be exposed or at risk of exposure to diseases or conditions of regulatory interest as defined by the commission.

(b) Designation To Handle Restricted Animals. A facility that is feeding or raising calves that are classified as restricted. This facility has the necessary protocols and testing standards in place to provide for minimal risk of disease spread while allowing for the designated cattle upon completion of the herd plan to move in commerce for their intended use.

(c) Designation Agreement. In order to be recognized as an Authorized Calf Ranch or Authorized Grower Facility, there shall be a signed designation agreement with the commission indicating that the facility can meet the necessary standards to accept restricted cattle. The agreement will contain standards including, but not limited to, provisions for isolation of animals through geographic separation, adequate fencing, consideration of drainage, use of official identification, biosecurity standards, testing protocols, recordkeeping requirements, and adherence with all movement restrictions for animals entering and leaving a facility.

(d) Individual Herd Plan(s) for Prevention of Tuberculosis (TB). The plan is developed between the authorized calf ranch/authorized grower facility, the owner of the cattle, and the commission. The plan shall be developed by a Designated Tuberculosis State-Federal epidemiologist (DTE) representing the commission to consider all necessary standards and procedures.

(e) Standards and procedures:

(1) Geographic separation. Adequate isolation of animals to prevent the spread of disease as determined by a DTE.

(2) Official identification. All animals entering and leaving the facility must be officially identified and that information is to be recorded and maintained as required by paragraph (4) of this subsection.

(3) Biosecurity standards. Biosecurity standards for Authorized Calf Ranches and Authorized Grower Facilities will be determined by the commission upon consultation with calf ranch management and herd owner, based upon generally accepted disease prevention principles, and any unique disease risk considerations of the individual herd. Approved facilities may be required to be cleaned and disinfected between use by different groups of cattle. Vacation of facilities may also be required in certain situations where TB has been detected in the lot or as directed by a DTE.

(4) Recordkeeping requirements. An approved facility shall maintain records for five years which indicate:

(A) Animal Owner/Operator's name and address;

(B) Number of animals;

(C) Description of each animal including sex, age, breed, official identification, date of entry into the facility, and date the animals are shipped from the facility, as well as correlating identification of any retagged animals;

(D) Origin and destination of the animals;

(E) Records on waste milk feed to calves, including source and pasteurization status; and

(F) Records for pasteurization of milk, including method, time, and temperature.

(f) Renewal/Revocation. The approved status must be renewed by the operator every two years provided that the requirements specified in these regulations and the approved agreement continue to be met by the authorized facility. If the Executive Director determines the authorized facility has failed to comply with the agreement, the status may be revoked.