

The Texas Animal Health Commission (commission) proposes amendments to §43.30, concerning Special Requirements for Movement Restriction Zone (MRZ), and §43.31, concerning Testing Requirements in Movement Restriction Zone (MRZ), in Chapter 43, which is entitled “Tuberculosis”.

The purpose of the amendments to §43.30 is to redefine the MRZ, establish geographic boundaries and testing requirements based on the “Bovine Tuberculosis Risk Assessment-El Paso and Hudspeth Counties” report. The proposed amendments will remove the Affected and Surveillance Areas from the MRZ definition and specify that the El Paso and Hudspeth County MRZ is limited to bovine.

The purpose of the amendments to §43.31 is to remove the annual Tuberculosis testing requirement for cattle, bison, captive cervid, exotic bovid, and camelid herds within the MRZ. Annual testing will be replaced with a requirement to test susceptible species as epidemiologically determined by the commission.

House Bill 1081 from the 83rd Texas Legislative Session directed the commission to conduct a study, with a report to be submitted by September 1, 2014, regarding the current risk of bovine tuberculosis (TB) in areas determined to be at high risk for TB. This area is defined by commission rule as the Movement Restriction Zone. The “Bovine Tuberculosis Risk Assessment-El Paso and Hudspeth Counties” report recommended the MRZ be reduced in size but maintained as a buffer against the reoccurrence of TB in the area. The report also recommended removal of the requirement for annual TB testing of certain species in the highest risk area within the MRZ, currently defined as the Affected Area, and replacing it with a test interval to be determined epidemiologically by the commission.

The MRZ, which effectively prohibits dairies from operating in the zone, was established in 2001 in parts of El Paso and Hudspeth counties. The MRZ was necessary due to the persistence of bovine Tuberculosis in the area despite aggressive and costly surveillance and eradication efforts conducted continuously since 1985. Since the establishment of the MRZ, as well as the associated depopulation of dairies in the area and surveillance in other susceptible species, no new cases of bovine TB have been confirmed within the area. Testing of TB-susceptible species in the MRZ in 2014 indicates that earlier eradication and control measures (including prohibition of dairies) were effective, and the area remains free of bovine TB.

Bovine TB in Mexico was and continues to be a concern with regard to possible re-introduction of this disease into Texas. Molecular genotyping techniques confirmed the same three distinct strains of *M. bovis* were present in cattle in El Paso, Texas, Las Cruces, New Mexico and Juarez, Mexico, in the past. How these disease agents were being moved across the border was never determined, and remains a factor to be considered in any action taken now regarding safeguards against the potential for future infection. There are indications that Mexico has made some progress in controlling bovine TB in the area nearest to the MRZ. In June 2014, a review of the state of Chihuahua, Mexico was conducted by a team of experts organized and led by the United States Department of Agriculture, Veterinary Services (VS). This review resulted in an

upgrade of 56 municipalities from Accredited Preparatory status to provisional Modified Accredited (MA) status, including those municipalities bordering the MRZ in Texas.

The study concluded that if dairies are allowed to operate in the El Paso area, the risk of bovine TB re-establishing and then spreading to other herds is low but still significant. It was also concluded that the lower risk portion of the MRZ, currently defined as the Surveillance Area, could be safely removed. No TB-affected herds were found in this area even when there were multiple herds under quarantine in the Affected Area. This recommendation could be reversed pending the results of two herd tests pending in the area, and scheduled for the fall of 2014.

Testing of TB-susceptible species in the MRZ in 2014 indicates that earlier eradication and control measures were effective, and the annual TB test requirement can be removed without significantly increasing the risk for reoccurrence of bovine TB in the area.

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 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, or to individuals.

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 a zone and test requirement that more adequately reflects the Tuberculosis risk for cattle in that area.

LOCAL EMPLOYMENT IMPACT STATEMENT

In accordance with Texas Government Code §2001.022, this agency has determined that the proposed amendments 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 Amanda Bernhard, 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 statute §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 §161.057, entitled “Classification of Areas”, the commission by rule may prescribe criteria for classifying areas in the state for disease control. The criteria must be based on sound epidemiological principles. The commission may prescribe different control measures and procedures for area with different classifications. The commission by rule may designate as a particular classification an area consisting of one or more counties.

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

Pursuant to §162.003, entitled “Testing”, the commission by rule shall prescribe the manner, method, and system of testing cattle for tuberculosis under a cooperative program.

Pursuant to §162.009, entitled “Tuberculosis Modified Accredited Advanced and Tuberculosis Free Areas”, as part of a cooperative program, the commission or its representative may examine, test, and retest any cattle in this state as necessary to maintain an area of this state as a tuberculosis modified accredited advanced area or to establish or maintain each area of this state as a tuberculosis free area under the uniform methods and rules of the United States Department of Agriculture and the rules of the commission. Under §162.009(b), the commission or its representative may test or retest all or part of a herd of cattle at intervals considered necessary or advisable by the commission to control and eliminate tuberculosis in animals.

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

43.30. Special Requirements for Movement Restriction Zone (MRZ).

~~(a) Definition of Zone Boundaries: The Movement Restriction Zone (MRZ) (“MRZ”) is defined as a geographic area infected with or at high risk for which includes an Affected Area, where bovine tuberculosis occurs or has historically occurred, and a Surveillance Area where the disease has not been detected, but which serves as a buffer area between the Affected Area and the Free Zone of Texas. The boundaries of the referenced zones and areas are as follows:~~

~~(1) MRZ: The area of El Paso County and Hudspeth County which lies within the boundaries established by the Rio Grande River on the West; Loop 375 to FM 659 to US 62/180 on the North; the El Paso County line to I 10 to Spur 148 at Ft Hancock on the East; and Spur 148 to the Rio Grande River on the South.~~

~~(A) Affected Area within the MRZ: The area of the MRZ in El Paso County which lies west of I 10, as defined above.~~

~~(B) Surveillance Area within the MRZ: The area of the MRZ in El Paso County which lies east of I 10, and all of the MRZ in Hudspeth County, as defined above.~~

~~(2) Free Zone: The area of Texas not included in the MRZ.~~

(b) El Paso and Hudspeth County MRZ. That portion of the state within the boundaries of a line beginning in El Paso County where Loop 375 and Interstate Highway (IH) 10 intersect; thence southeast along IH 10 to Spur 148 at Ft. Hancock in Hudspeth County; thence south along Spur 148 to State Highway (SH) 20; thence south along SH 20 to Farm to Market Road (FM) 1088; thence south along FM 1088 to the Rio Grande River; thence northwest along the Rio Grande River to South Zaragoza Road in El Paso County; thence north along South Zaragoza Road to Loop 375; thence northeast along Loop 375 to the intersection of Loop 375 and IH 10. The El Paso and Hudspeth County MRZ only applies to bovine.

43.31. Testing Requirements in Movement Restriction Zone (MRZ).

~~(a) All species susceptible to bovine tuberculosis cattle, bison, captive cervid, exotic bovid, and camelid herds within the Movement Restriction Zone Affected Area must be tested as epidemiologically determined by the commission annually.~~

~~(b) All cattle, bison, captive cervid, exotic bovid, and camelid herds within the Surveillance Area must be tested on an interval not to exceed two years.~~