

The Texas Animal Health Commission (commission) proposes amendments to §38.1, concerning Definitions, §38.4, concerning Certified Veterinary Practitioners, and §38.6, concerning Official Trichomoniasis Tests, in Chapter 38, which is entitled “Trichomoniasis”.

The purpose of the amendments is to change the Trichomoniasis (Trich) certification period for veterinarians and reduce the shipping time for sample submission.

The Trich organism causes abortion and extended calving seasons. Bulls will remain persistently infected and spread infection from cow to cow. Older bulls 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 Bovine Trich Working Group (TWG) had an annual meeting on April 26, 2016, to evaluate the effectiveness of current rules. The TWG discussed the program overview to date, the management of infected herds, entry requirements, and the need for possible revisions to the program.

The TWG recommended extending the certification period of veterinarians certified to perform Trich program functions from 3 years to 5 years. The TWG also recommended reducing the time of arrival of Trich samples sent to the lab for testing. The group discussed the integrity of the sample to be tested at 120 hours, which provides a longer chance for inhibitors to negatively impact testing. Literature shows that after 30 hours there is a decline; therefore, the group recommended changing the arrival time at the lab from 120 hours to 96 hours.

The definition of cattle in this chapter includes bison and is being amended to exclude bison from the test requirements. Research has failed to show that bison pose a significant risk to spread or carry Trich and the Executive Director has routinely waived the test requirement in the past.

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 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 more efficient rules to allow veterinarians to be recertified for a longer period, as well as adjust

the time for samples to be submitted to the lab for testing within the recommended timeframe.

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 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(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 §161.005, 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.

Pursuant to §161.006, entitled “Documents to Accompany Shipment”, if required that a certificate or permit accompany animals or commodities moved in this state, the document must be in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

Pursuant to §161.0417, entitled “Authorized Personnel for Disease Control”, a person, including a veterinarian, must 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. Section 161.0417 requires 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. Section 161.0417 does not affect the requirement for a license or an exemption under Chapter 801, Occupations Code, to practice veterinary medicine.

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

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 §161.101, 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.

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*), excluding [and] bison (genus *Bison*).
- (4) Certified Veterinarians--Veterinarians certified with, and approved by the 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.

(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 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 and/or Administrator of APHIS that provides unique identification for each animal. Official identification includes 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.

(18) Official Trichomoniasis Test--A test for bovine Trichomoniasis, approved by the commission, applied and reported by TVMDL or any other laboratory approved as an official laboratory by the 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 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 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 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 18 months of age as determined by the eruption of the two permanent central incisors 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.

38.4. Certified Veterinary Practitioners.

(a) Only veterinarians certified through the Commission may perform Trichomoniasis program procedures, including but not limited to, collection of samples for official tests for Trichomoniasis within the state of Texas, submission of samples to official laboratories, identification of tested bulls and virgin bulls, management of Trichomoniasis infected bull herds, movement of infected bulls, and reporting of test results. In order to collect and submit Trichomoniasis samples a veterinary practitioner shall be certified to perform Trichomoniasis program procedures. In order to be certified, a veterinarian shall also be licensed to practice veterinary medicine in the state of Texas and be accredited through USDA.

(b) All veterinarians desiring to perform Trichomoniasis program functions shall participate in a certification program on Trichomoniasis program requirements and procedures before performing any Trichomoniasis program functions, including but not

limited to review of the disease, proper sample collection techniques, sample preservation and laboratory submission, identification of animals, management of infected herds and shipment of infected or exposed animals to slaughter. The official certification program shall be conducted by or under the auspices of the Commission. Certified veterinarians shall be recertified every five [three] years.

(c) Certified veterinarians shall utilize approved procedures for collection of samples, identification of animals and submission of samples to laboratories.

(d) Certified veterinarians shall only utilize the official laboratories for culture of Trichomoniasis samples.

(e) Certified veterinarians shall submit all Trichomoniasis samples including all official identification on official Trichomoniasis test and report forms to the TVMDL in accordance with §38.6 of this chapter (relating to Official Trichomoniasis Tests).

38.6. Official Trichomoniasis Tests.

Approved Tests. Approved tests for Trichomoniasis testing within the State of Texas shall include the culture or Real Time Polymerase Chain Reaction (RT-PCR) testing of samples collected into an InPouch by certified veterinarians following approved collection, handling and shipping protocols, then tested in approved laboratories.

(1) Official Culture Tests. An official test is one in which the sample is received in the official laboratory, in good condition, within 48 hours of collection and such sample is tested according to the "Official Protocol for Culture of Trichomoniasis." Samples in transit for more than 48 hours will not be accepted for official culture testing. During transportation, the organisms should be protected from exposure to daylight and extremes of temperature, which should remain above 15 degrees Celsius (59 degrees Fahrenheit) and below 37 degrees Celsius (98.6 degrees Fahrenheit).

(2) Official Polymerase Chain Reaction Tests. Polymerase Chain Reaction is accepted as an official test or an official confirmatory test when completed by a qualified laboratory, approved by the Executive Director, and the sample is received in good condition by the laboratory within 48 hours after collection, or is incubated by the collecting veterinarian after collection, then submitted [for 48 hours after collection,] to arrive at the laboratory within 96 [120] hours of collection. Trichomoniasis samples pooled at the laboratory may qualify as official tests at a ratio of up to five individually collected samples pooled for one test. Veterinary practitioners may not submit pooled samples for an official test.

(3) Other Official Tests. Other tests for Trichomoniasis may be approved by the Commission, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established.