

The Texas Animal Health Commission (commission) proposes amendments to §41.1, concerning Definition of Terms, and a new §41.8, concerning Dipping, Treatment, and Vaccination of Animals, in Chapter 41, which is entitled “Fever Ticks.”

The commission is also proposing the repeal of the existing §41.8, concerning Dipping and Treatment of Livestock, with the new §41.8 replacing it in its entirety.

The purpose of the amendments to §41.1 is to add a fever tick vaccine definition. The purpose of a new §41.8 is to add fever tick vaccine requirements for beef cattle located in a control purpose quarantine area, temporary preventative quarantine area or tick eradication quarantine area, and other beef cattle or premises epidemiologically determined by the commission to be at an increased risk for fever ticks. A new §41.8 will also clarify and better organize the different requirements for dipping, treatment, and vaccination. The title of §41.8 is being changed to accurately capture that the requirements apply to animals, not just livestock, capable of hosting or transporting ticks capable of carrying Babesia, and to add vaccination to the title.

The purpose of the Texas Cattle Fever Tick Eradication Program is to eradicate fever ticks through the management of a permanent quarantine zone, as well as through temporary quarantine areas, created to address the presence of ticks outside the permanent zone.

The USDA Cattle Fever Tick Eradication Program, USDA Agriculture Research Service, and the commission have developed a vaccine for the purpose of acting as a preventative to be used against fever ticks. Collaboratively, they worked with a major pharmaceutical company for five years to get the vaccine through the approval process by USDA Center for Veterinary Biologics (CVB) approval process with the intent for the fever tick vaccine to be integrated into the eradication program.

The fever tick vaccine was developed and manufactured by a major pharmaceutical company with extensive experience in livestock products. It is a recombinant product which has no live, modified live, nor killed bacterial or viral components. It is derived from epithelial lining of the fever tick gut. Cattle vaccinated with this antigen produce an antibody response at high levels in blood. Fever ticks which feed on immunized cattle consume high levels of the antibody in blood meal. The antigen-antibody response occurs in the stomach of the tick and effectively destroys the gut lining of the tick, reducing the tick’s capabilities to produce offspring and potentially killing the tick.

The fever tick vaccine requires two priming doses 28 days apart. The maximum protection requires boosters every 6 months. This is administered by intramuscular injection in the neck region of cattle. The vaccine is approved for use in beef cattle two months of age and older. There is insufficient safety data for use of the vaccine in dairy cattle and, as such, the vaccine is not authorized for use in dairy cattle at this time. The USDA CVB requires a slaughter withholding period of 60 days following administration of the vaccine and that is provided for in the proposal.

There are numerous benefits of the fever tick vaccination, with the most significant being the potential to eradicate ticks from infested premises. The vaccine provides long term protection against re-infestation; after the initial inoculations cattle only need, at most, two inoculations per year and premises are protected continuously because cattle are fever tick immune. In this regard, the vaccine substantially prevents re-establishment of ticks when new incursions occur from stray livestock and wildlife from Mexico in US premises stocked with immunized cattle. The vaccine is simple to administer and works synergistically with treatment to promote more efficient elimination of fever ticks on premises with less dependency on chemical and systemic acaracides.

It is also noted that although the vaccine is over 95% effective against *Rhipicephalus (Boophilus) annulatus*, it is only 70% effective against *Rhipicephalus (Boophilus) microplus* but, the booster effect over a 2-3 year period is believed to raise efficacy to near 90% for *Rhipicephalus (Boophilus) microplus*. The next generation vaccine, expected in two years, is predicted to have high efficacy for both strains of fever ticks with fewer annual boosters.

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. It is being applied to everyone restricted by a fever tick quarantine because the cattle have to be inspected for fever ticks, which provides an opportunity to have the cattle vaccinated at that time. Furthermore, having the cattle vaccinated will act as a preventative for fever ticks, which will help control and eventually eradicate fever ticks from infested premises.

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 have a preventative measure in place to control and eradicate fever ticks from a herd or premises.

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 Chapters 161 and 167 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 §161.007, entitled “Exposure or Infection Considered Continuing”, if a veterinarian employed by the commission determines that a communicable disease exists among livestock, domestic animals, or domestic fowl or on certain premises or that livestock, domestic animals, or domestic fowl have been exposed to the agency of transmission of a communicable disease, the exposure or infection is considered to continue until the commission determines that the exposure or infection has been eradicated through methods prescribed by rule of the commission.

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 areas with different classifications.

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 or on the affected place.

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 §167.003, entitled “General Powers and Duties of the Commission”, the commission shall eradicate all ticks capable of carrying Babesia in this state and shall protect all land, premises, and livestock in this state from those ticks and exposure to those ticks. In carrying out this chapter, the commission may adopt necessary rule.

Pursuant to §167.004, entitled “Classification of Animals or Premises as Infested, Exposed or Free from Exposure”, the commission by rule shall define what animals and premises are to be classified as exposed to ticks. The commission shall classify as exposed to ticks livestock that have been on land or in an enclosure that the commission determines to be tick infested or exposed to ticks or to have been tick infested or exposed to ticks before or after the removal of the livestock, unless the commission determines that the infestation or exposure occurred after the livestock were removed and that the livestock did not become infested or exposed before removal.

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

41.1. Definition of Terms.

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

(1) Adjacent premise--A premise that borders an exposed or infested premise, including premises separated by roads, double fences, or fordable streams. A premise that would normally be classified as adjacent may be exempted from adjacent premise requirements by a State or Federal epidemiologist if the premise is separated from the exposed or infested premise by double fencing, sufficient to prevent the spread of ticks, with one of the fences being game-proof.

(2) Animal--Any domestic, free-range, or wild animal capable of hosting or transporting ticks capable of carrying Babesia, including livestock; zebras, bison, and giraffes; and deer, elk, and other cervid species.

- (3) Certificate--A document authorizing movement of livestock issued by an authorized representative of the commission after the livestock have been treated in a manner prescribed by the commission for the area and premise from which they originate.
- (4) Check premise--A premise located in a tick eradication quarantine area, temporary preventative quarantine area, or control purpose quarantine area that is not classified as an infested, exposed, or adjacent premise.
- (5) Control purpose quarantine area--A premise or property designated by the commission for a systematic inspection of livestock and premises and control of the movement of livestock in order to investigate and control a suspected exposure of animals to ticks outside the tick eradication quarantine area. The boundaries of the area will be determined by evaluation of the barriers to the potential spread of ticks.
- (6) Designated Fever Tick Epidemiologist (DFTE)--A State or Federal epidemiologist designated to make decisions concerning the use and interpretation of exposure to fever ticks and to manage the Fever Tick program. The DFTE must be selected jointly by the Executive Director of the commission [Commission] and the USDA-APHIS, VS representative [AVIC] for Texas. The DFTE has the responsibility to determine the scope of epidemiologic investigations, determine the status of herds, assist in development of individual herd plans, and coordinate fever tick surveillance and eradication programs within his or her geographic area of responsibility. The DFTE has authority to make independent decisions concerning the management of herds and use of property and limiting the impact of wildlife when those decisions are supported by sound fever tick eradication principles.
- (7) Dipping or treating--If the commission [Commission] requires livestock to be dipped, the livestock shall be submerged in a vat. A spray-dip machine may be used in areas where a vat is not reasonably available. Careful hand spraying may be used for easily restrained horses and show cattle, and when specifically authorized, certain zoo or domestic animals. Livestock unable to go through a dipping vat because of size or physical condition may be hand sprayed. The treatment must be paint marked so that it can be identified for at least 17 days. If the commission [Commission] determines that free-ranging wildlife and exotic animals, which are capable of hosting fever ticks, require treatment, they shall be treated by methods and for the duration of time approved by the commission [Commission].
- (8) Exposed livestock--Any of the following factors shall constitute livestock as being exposed:
- (A) Livestock that have entered an infested or exposed premise and have not been dipped and removed from the infested or exposed premise within 14 days after entry.
 - (B) Livestock that have occupied an exposed premise and have not completed treatment required for movement from an exposed premise.
 - (C) Livestock that have entered Texas from Mexico without a certificate from the United States Department of Agriculture.
- (9) Exposed premise--A premise shall be considered exposed if systematic treatment has not been completed and if either of the following conditions apply:
- (A) Ticks have been found on livestock that have been on the premise for less than 14 days.
 - (B) A premise that has received exposed livestock, or equipment or material capable of carrying ticks from an infested or exposed premise.

(10) Fever Tick Vaccine--A biological treatment administered by injection to an animal that stimulates a potent immune response against fever tick proteins, which prevents the infestation of ticks capable of carrying Babesia.

(11) [(10)] Free area--An area designated by the commission as being free of ticks or exposure to ticks. The extent of the area will be determined by the appropriate barriers to the potential spread of ticks.

(12) [(11)] Game proof fence--A fence that has a minimum height of eight feet, consisting of wire mesh of sufficiently small size to prevent or impede the movement of domestic or exotic wildlife over, under, or through the fenced area.

(13) [(12)] Individual herd plan--A written disease management plan that is developed by the herd or land owner(s) and/or their representative(s), and a State or Federal DFTE to eradicate fever ticks or potential exposure to fever ticks from an affected herd or property. The herd plan will include appropriate treatment frequencies, treatments to be employed, and any additional fever tick management or herd management practices, including vaccination, deemed necessary to eradicate fever ticks from the herd or on an infected or exposed premise in an efficient and effective manner. The plan must be approved by the Executive Director of the commission [Commission] and the USDA-APHIS, VS representative for Texas [AVIC], and have the concurrence of the DFTE.

(14) [(13)] Infested livestock--Livestock shall be considered infested if eradication treatment for movement from an infested premise has not been completed and if either of the following conditions apply:

(A) Ticks have been found on livestock.

(B) Livestock which occupy a premise where ticks have been found on livestock that have been on the premise more than 14 days.

(15) [(14)] Infested premise--A premise where ticks have been found on livestock that have been on the premise for more than 14 days, and systematic treatment has not been completed.

(16) [(15)] Livestock--Any domestic animal or any free ranging animals found on a premise or captured wild animal that is capable of hosting or transporting ticks capable of carrying babesia (the causative agent of cattle tick fever), including, but not limited to, cattle, horses, mules, jacks, jennets, zebras, buffalo, giraffe, and deer.

(17) [(16)] Permit--A document issued by an authorized representative of the commission allowing specified movement of livestock.

(18) [(17)] Premise--An area which can be defined by boundaries of recognizable physical barriers that prevent livestock from crossing the boundaries under ordinary circumstances; or an area that livestock do not ordinarily inhabit that the commission defines by recognizable features.

(19) [(18)] Premise inspection--A routine inspection by an authorized representative of the commission of premise boundaries and the livestock within for the purpose of documenting exposure of the premise.

(20) [(19)] Premise under vacation--A premise from which all livestock have been removed as prescribed by the commission.

(21) [(20)] Range inspection of livestock--An inspection of livestock to see the animal close enough to detect ticks on the animal.

(22) [(21)] Scratch inspection of livestock--An inspection of livestock by an authorized representative of the commission in an approved facility that allows the inspector to touch and see all parts of the livestock.

(23) [(22)] Temporary preventative quarantine area--An area designated by the commission for systematic inspection and treatment of livestock and premises, and control of movement of livestock, in order to detect and eradicate infestation and exposure from infested or exposed premises outside the tick eradication quarantine area. The extent of the area will be determined by evaluating the barriers to the potential spread of ticks. This is also designated as a "Blanket Disease Quarantine."

(24) [(23)] The commission--The Texas Animal Health Commission.

(25) [(24)] Tick--Any tick capable of transmitting bovine Babesiosis (cattle tick fever or bovine piroplasmiasis).

(26) [(25)] Tick eradication quarantine area--An area designated by the commission for systematic inspection and treatment of livestock and premises, and control of movement of livestock, in order to detect and eradicate infestation from infested or exposed premises. The extent of the area will be determined by evaluating the barriers to the potential spread of ticks. This is the permanent quarantine area which is designated in §§41.14 - 41.22 of this chapter (relating to Quarantine Line; Defining and Establishing Tick Eradication Areas), and in the United States Department of Agriculture Code of Federal Regulations Part 72.5, parallel to the Rio Grande River, commonly known as the buffer zone or systematic area.

(27) [(26)] Treatment--A procedure or management practice used on an animal to prevent the infestation of, control or eradicate ticks capable of carrying Babesia.

41.8. Dipping, Treatment, and Vaccination of Animals.

(a) General Requirements:

(1) All scratch inspections, dipping, treatment, and vaccination prescribed in this section must be done under the supervision of a representative authorized by the commission.

(2) All scratch inspections, dipping, treatment, or vaccination must be done under instructions issued by the commission. All requirements will be in written form directed to the owner or caretaker. An inspector for the commission will deliver the instructions in person along with a copy of these regulations. All premise boundaries will be listed in the instructions.

(3) The owner or caretaker of livestock on infested and exposed premises must comply with the TAHC approved Quarantine Schedule as follows:

(A) The starting date for infested premises for Table I (Pasture Treatment or Vacation Schedule, South of Highway 90) and Table II (Pasture Treatment or Vacation Schedule, North of Highway 90), is the date of the first clean dipping of 100% of the livestock.

(B) The starting date for exposed premises for Table I and Table II is when 100% of the livestock on the premise have been dipped.

(C) Copies of Table I (Pasture Treatment or Vacation Schedule, South of Highway 90) and Table II (Pasture Treatment or Vacation Schedule, North of Highway 90) may be obtained from the Texas Animal Health Commission, P.O. Box 12966, Austin, Texas 78711-2966.

Figure: 4 TAC §41.8(a)(3)(C)

QUARANTINE SCHEDULE FOR INFESTED AND EXPOSED PREMISES

North of Highway 90

Date of Pasture Vacation or Systematic Treatment		Date of Pasture Release	
August	16 - 31	June	16 - 30
September	1 - 30	July	1 - 31
October	1 - 31	August	1 - 31
November	1 - 30	September	1 - 30
December	1 - 31	September	30
January	1 - 31	September	30
February	1 - 28	September	30
March	1 - 31	September	30
April	1 - 30	October	1 - 31
May	1 - 31	November	1 - 31
June	1 - 15	December	1 - 15

June 16 - August 15

June															
V	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
R	16	19	22	25	28	31	3	6	9	12	15	18	21	24	27
December							January								

July															
V	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
R	30	2	5	8	11	14	17	20	23	26	1	4	7	10	13
Jan February							March								

July																
V	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
R	17	20	23	26	29	1	4	7	10	13	16	19	22	25	28	1
March					April										May	

August															
V	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
R	4	7	10	13	16	19	22	25	28	31	3	6	9	12	15
May							June								

V - Date Vacated R - Date Released

Fever tick eradication activity must be started within two weeks from the time fever tick infestation or exposure is found and reported to the owner or his agent, unless otherwise prescribed by the Texas Animal Health Commission.

Date of Systematic Treatment is first treatment of all livestock with no cattle fever ticks found on scratch inspection.

QUARANTINE SCHEDULE FOR INFESTED AND EXPOSED PREMISES

South of Highway 90

Date of Pasture Vacation or Systematic Treatment	Date of Pasture Release
August	1 - 31
September	1 - 30
October	1 - 31
November	1 - 30
December	1 - 31
January	1 - 31
February	1 - 28
March	1 - 31
April	1 - 30
May	1 - 31
June	1 - 15
May	1 - 31
June	1 - 30
July	1 - 31
August	1 - 31
September	1 - 30
September	30
September	30
September	30
October	1 - 31
November	1 - 31
December	1 - 15

June 16 - July 31

June															
V	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
R	16	19	22	25	28	31	3	6	9	12	15	18	21	24	27
December							January								

July															
V	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
R	30	2	5	8	11	14	17	20	23	26	1	4	7	10	13
Jan February							March								

July																
V	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
R	17	20	23	26	29	1	4	7	10	13	16	19	22	25	28	1
March					April							May				

V - Date Vacated R - Date Released

This eradication activity must be started within two weeks from the time tick infestation or exposure is found and reported to the owner or his agent, unless otherwise prescribed by the Texas Animal Health Commission.

Date of Systematic Treatment is first treatment of all livestock with no cattle fever ticks found on scratch inspection.

(4) The owner or caretaker must gather and present all livestock for scratch inspection, dipping, treatment, or vaccination required by the commission. The owner or caretaker is responsible for all costs associated with and labor necessary for presenting the owner or caretaker's cattle for scratch inspection, dipping, treatment, or vaccination at the location prescribed by the commission.

(b) Requirements for Dipping, Treatment, or Vaccination:

(1) Dipping Requirements:

(A) The owner or caretaker of livestock on infested or exposed premises must present the livestock to be scratch inspected and dipped with subsequent dipping every seven to 14 days until the livestock are moved from the premise in accordance with these regulations, except as provided in subsection (a)(3) of this section.

(B) The 14-day interval may be extended due to circumstances beyond the control of the owner upon approval by an authorized representative of the commission. In no event will the extension be more than three days. If the extension is granted, no certificate for movement will be issued after the 14th day, and the next dip must be on the original 14-day schedule.

(C) The scratch inspection and first dip must be within 14 days from the date infestation or exposure is discovered unless otherwise approved by the commission.

(D) A dip is not official unless 100% of the livestock within the premise affected are dipped on schedule.

(E) The commission will authorize for use in dipping only those dips that have been approved by the Animal and Plant Health Inspection Service of the United States Department of Agriculture and the Texas Animal Health Commission for use in official dipping to rid animals of the tick.

(F) The concentration of the dipping chemical used must be maintained in the percentage specified for official use by means of the approved vat management techniques established for the use of the agent; or, if applicable, by an officially approved vat side test or field test of the commission.

(G) If the commission requires livestock to be dipped, the livestock shall be submerged in a vat. A spray-dip machine may be used in areas where a vat is not reasonably available.

(H) Careful hand spraying may be used for easily restrained horses and show cattle, and when specifically authorized by a commission representative, certain zoo or domestic animals.

(I) Livestock unable to go through a dipping vat because of size or physical condition, as determined by a commission representative, may be hand sprayed.

(J) The dip treatment must be paint marked on the animals so that it can be identified for as treated for at least 17 days after the treatment.

(2) Authorized Treatment Requirements:

(A) Following the first clean dipping of 100% of the livestock, the cattle may be treated with injectable doramectin in lieu of systematic dipping. The owner or caretaker of cattle on an infested or exposed premise must present the livestock to be scratch inspected and treated with injectable doramectin every 25-28 days until the livestock are moved from the premises in accordance with these regulations, except as provided in subsection (a)(3) of this section.

(B) Treatment of doramectin shall be administered by subcutaneous injection by a representative of the commission.

(C) The owner or caretaker must comply with the slaughter withholding period (35 days) of doramectin by holding cattle at the premise of origin until the withdrawal period has been completed.

(D) A treatment is not official unless 100% of the livestock within the premise affected are treated on schedule.

(E) Free-ranging wildlife or exotic livestock that are found on infested or exposed premises, and which are capable of hosting fever ticks will be treated by methods approved by the commission and for the length of time specified by the commission.

(i) Ivermectin medicated corn may be administered to free-ranging wildlife or exotic livestock by a representative of the commission following the close of the hunting season, provided that treatment is terminated at least 60 days prior to the beginning of the next hunting season to comply with the required withdrawal period.

(ii) Permethrin impregnated roller devices may be used for topical treatment of free-ranging wildlife or exotic livestock during periods when ivermectin medicated corn is not administered. The commission may specify the use of other pesticides for treatment of wildlife or exotic livestock when deemed necessary to control and eradicate fever ticks.

(3) Vaccination Requirements:

(A) The fever tick vaccine shall be administered by employees or authorized agents of the USDA/APHIS/Veterinary Services or the commission.

(B) The owner or caretaker must comply with the 60 day slaughter withholding period, or other slaughter withholding timeframe as specified by the label. The owner or caretaker must hold vaccinated cattle at the premise of origin until the withdrawal period is has been completed.

(C) In addition to any dipping or treatment required by this section, beef cattle two months of age or older located within the tick eradication quarantine area shall be vaccinated with the fever tick vaccine at intervals prescribed by the commission. The vaccine must be administered when cattle are gathered and presented for annual inspection as required by §41.9 of this chapter (relating to Vacation and Inspection of a Premise) and at other times specified by the commission.

(D) In addition to any dipping or treatment required by this section, the commission may require fever tick vaccination of beef cattle two months of age and older located within the temporary preventative quarantine area, control purpose quarantine area or other beef cattle or premises epidemiologically determined by the commission to be at an increased risk for fever ticks. The cattle shall be vaccinated at intervals prescribed by the commission.

(c) Herd Plan and Protest. Each premise within a tick eradication quarantine area, temporary preventative quarantine area, or control purpose quarantine area will be classified by the commission as an infested, exposed, adjacent, or check premise and is required to execute a herd management plan and remain under restrictions until no evidence of fever ticks is disclosed or a complete epidemiologic investigation fails to disclose evidence of exposure to fever ticks, with the concurrence of the DFTE. A person may protest an initial test or a herd plan for each premise classified as increased risk for fever ticks.

(1) To protest, the responsible person 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.