

The Texas Animal Health Commission (commission) proposes the new Chapter 50, §50.1 and §50.2, concerning Animal Disease Traceability. The purpose of the new chapter is to establish standards for facilities or locations which must be approved to identify livestock moving interstate under the federal disease traceability program.

The United States Department of Agriculture (USDA) has amended its regulations and established minimum national official identification and documentation requirements for the traceability of livestock moving interstate. Under USDA's rulemaking, unless specifically exempted, livestock belonging to species covered by the regulations must be officially identified and accompanied by an interstate certificate of veterinary inspection or other documentation. These regulations specify approved forms of official identification for each species but allow the livestock covered under this rulemaking to be moved interstate with another form of identification, as agreed upon by animal health officials in the shipping and receiving States or Tribes. The federal rule provides for an approved tagging site, which is a premise, where livestock moving interstate may be officially identified upon arrival on behalf of their owner or shipper. Under the federal rule the tagging facilities must be officially approved by the state where located. The effective date of the USDA rule is March 11, 2013, and it is found in 9 CFR part 86.

The first section in the new chapter is for applicable definitions. The second section is to establish the requirements for an approved tagging site. The USDA rule provides for approved tagging sites so producers who cannot or prefer not to tag their animals can move cattle interstate to a location where the animals will be officially identified on their behalf. An approved tagging site is authorized to receive and offload cattle that require official identification and to officially identify those cattle in accordance with the protocols defined by the State or Tribal animal health official and Federal Area Veterinarian in Charge. An approved tagging site is a premise, authorized by animal health officials, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises. While livestock markets are frequently referenced as being potential approved tagging sites, other locations, such as feedlots, could also become approved tagging sites.

An animal identification number is a numbering system for the official identification of individual animals in the United States that provides a nationally unique identification number for each animal. The AIN consists of 15 digits, with the first 3 being the country code (840 for the United States or a unique country code for any U.S. territory that has such a code and elects to use it in place of the 840 code). The alpha characters USA or the numeric code assigned to the manufacturer of the identification device by the International Committee on Animal Recording may be used as an alternative to the 840 or other prefix representing a U.S. territory; however, only the AIN beginning with the 840 or other prefix representing a U.S. territory will be recognized as official for use on AIN tags applied to animals on or after March 11, 2015. The AIN beginning with the 840 prefix may not be applied to animals known to have been born outside the United States

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 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. The identification tags are available at no cost to producers and other parties who will be applying official identification. The necessity of official identification for specific animals to move interstate also creates an opportunity for identification to be applied by a third party for a nominal fee. The actual cost of tagging will vary some depending on the situation, but the federal requirement allows for untagged animals to enter the state as an exception to the federal identification requirement, which has afforded the cattle producer some reduced cost by not having them identified prior to movement.

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 authorized tagging sites located in Texas and operating under the federal animal disease traceability system, which will provide sustained disease surveillance, control, enhanced marketability, quality assurance, and the related relative freedoms of commerce both intra and interstate.

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 address 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) 719-0721 or by e-mail at "comments@tahc.state.tx.us".

STATUTORY AUTHORITY

The new rules 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, by §161.041(b), to act to eradicate or control any disease or agent of transmission for

any disease that affects livestock. If the commission determines that a disease listed in §161.041 of this code 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 agent of transmission of one of those diseases, the commission shall establish a quarantine on the affected animals or on the affected place. That authority is found in §161.061.

As a control measure under §161.054, 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. The commission, through §161.048, 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.

Under §161.081, the commission by rule may regulate the movement of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country. Also, under that section, the commission by rule may provide the method for inspecting and testing animals before and after entry into this state. The commission by rule may provide for the issuance and form of health certificates and entry permits. The rules may include standards for determining which veterinarians of this state, other states, and departments of the federal government are authorized to issue the certificates or permits. Section 161.005 provides that 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.

Under §161.112, the commission may adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases. Also, the commission may adopt rules requiring permits for moving exotic livestock and exotic fowl from livestock markets as necessary to protect against the spread of communicable diseases.

No other statutes, articles or codes are affected by the proposed new chapter.

50.1. Definitions.

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

- (1) Animal identification number (AIN)--A numbering system for the official identification of individual animals that provides a nationally unique identification number for each animal. Only the AIN beginning with the 840 or other prefix representing a U.S. territory will be recognized as official for use on AIN tags applied to animals on or after March 11, 2015.

- (2) Approved livestock facility--A stockyard, livestock market, buying station, concentration point, or any other premises, under State or Federal veterinary inspection, where livestock are assembled and that has been approved by the Texas Animal Health Commission.
- (3) Approved tagging site--A premises, authorized by the Texas Animal Health Commission, where livestock may be officially identified on behalf of their owner or the person in possession, care, or control of the animals when they are brought to the premises.

50.2. Approved Tagging Site.

(a) In order to be approved as a tagging site the person responsible for the tagging site must agree to administer the tagging of livestock at their location in accordance with the following requirements:

- (1) Obtain official identification eartags only as directed by the commission.
- (2) Unload animals requiring official identification only when the owner or the person in possession, care, or control of the animals agrees to have the animals officially identified in accordance with approved tagging site protocols.

(b) Requirements for officially identifying animals:

- (1) Officially identify animals required to be identified before commingling with animals from different premises, or use a backtag or other method to accurately maintain the animal's identity until the official eartag is applied. The official identification can then be correlated to the person responsible for shipping the animal.
- (2) Apply only official eartags to animals not already officially identified.
- (3) Do not remove official identification devices unless authorized by commission personnel.

(c) Maintain tagging records using forms or electronic systems as directed by animal health officials to include, at a minimum:

- (1) The name, street address, city, state, and zip code of the owner or person responsible for the animals tagged.
- (2) The official identification numbers of the tags applied associated with the owner or person responsible for the animals.
- (3) The date the official identification eartags were applied.

(d) Provide the records to the commission if requested.

(e) Ensure the security of official eartags and distribution records by:

- (1) Maintaining a record of all official identification eartags received, distributed, and applied at the tagging site for a minimum of five years.
- (2) Keeping the inventory of tags and records in a secure place accessible only to tagging site personnel.
- (3) Immediately reporting any lost or stolen tags to the commission.