

## **EXPLANATION OF PROPOSED RULE**

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 51, entitled "Entry Requirements." The proposal is to amend the entry requirements related to Trichomoniasis for out of state breeding bulls as provided for in §51.8.

The Commission convened a Bovine Trichomoniasis Working Group (BTWG) in 2008, to provide recommendations to the Commission on the components and implementation strategy for a Trichomoniasis Control Program for the State of Texas. The BTWG recently completed an annual review the Trichomoniasis program and made recommendations to the Commission on amendments to the Trich program. The BTWG also recommended that the program should be continued as provided through §38.7.

Representatives of the BTWG met on May 4, 2011, to review specific requests for program changes received and to evaluate the effectiveness of current rules. Requests were received from cattle producers, auction market operators, veterinarians, and Commission personnel. Specific modifications to the Commission's entry requirements for out of state breeding bulls were recommended and are being acted on through this proposal.

### **BTWG Recommendations for Rule Changes**

The group made several recommendations for modifications to §51.8(c) dealing with Trichomoniasis requirements for breeding bulls entering Texas. The rules currently provide that breeding bulls less than 24 months of age may enter on a virgin certificate from the bull owner. However, the group discussed the fact that this is an area where there can be fraud in representing the virgin status of the animal and thereby increases the risk of positive bulls being shipped to Texas. As such, the group recommended that the Commission drop the age for not being tested down to 12 months and remove the virgin certificate requirement. The Commission agreed and is modifying that subsection to remove that standard and more clearly coordinate the rule. Also, it was recommended for out of state breeding bulls that we no longer recognize the Culture Test. The Culture Test can have great discrepancy in test results and in order to reduce the risk of positive animals entering the state, that test will no longer be recognized for entry. Lastly, we will allow untested bulls from out of state to enter Texas direct to a feedyard that has executed a Trichomoniasis Certified Facility Agreement, if they are on a VS 1-27 permit and accompanied by an entry permit issued by the Commission, because this type of movement with bulls destined to slaughter are a reduced risk for Trichomoniasis exposure.

### **FISCAL NOTE**

Dr. Matt Cochran, DVM, Assistant Executive Director of Administration, Texas Animal Health Commission, has determined for the first five-year period the rule is in effect, there will be no 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 purpose of the proposed amendments is make changes to the program as recommended by the

BTWG to better protect the Texas Cattle Industry. The use of the virgin certificate was removed in order to better prevent positive animals from being allowed to enter as virgin animals. The use of the 12-month age will better ensure that these animals have not been exposed to the disease through breeding practices. Also, the use of the culture test is no longer accepted from outside the state since this test can be done outside of a lab environment which creates greater quality control issues and, therefore is a higher risk for positives. The agency has evaluated the requirements and determined that there is not an adverse economic impact on cattle breeders or raisers, therefore, there is no need to do an EIS. Implementation of this rule poses no significant fiscal impact on small or micro-businesses.

## **PUBLIC BENEFIT NOTE**

Dr. Cochran has also determined that for each year of the first five (5) years the rule is in effect, the public benefit is the Texas cattle industry can have greater confidence that this modified rule will prevent the introduction of Trich from out of state breeding bulls.

## **LOCAL EMPLOYMENT IMPACT STATEMENT**

In accordance with Government Code, Section 2001.022, this agency has determined that the proposed rule 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 proposed amendments may be submitted to Delores Holubec, 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**

Chapter 51 is 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, 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 may require testing, vaccination, or another epidemiologically sound procedure before or after animals are moved. That authority is found in §161.054. 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. That authority is found in §161.048.

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.

Section 161.101 provides that the Commission may require a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal to report the existence of specific diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl. No other statutes, articles, or codes are affected by the amendments.

# **Texas Administrative Code**

<b><u>TITLE 4</u></b>	<b>AGRICULTURE</b>
<b><u>PART 2</u></b>	<b>TEXAS ANIMAL HEALTH COMMISSION</b>
<b><u>CHAPTER 51</u></b>	<b>ENTRY REQUIREMENTS</b>
<b>RULE §51.8</b>	<b>Cattle</b>

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(a) Brucellosis requirements. All cattle must meet the requirements contained in §35.4 of this title (relating to Entry, Movement, and Change of Ownership). Cattle, which are parturient, postparturient, or 18 months of age and over (as evidenced by the loss of the first pair of temporary incisor teeth), except steers and spayed heifers, being shipped to a feedyard prior to slaughter shall be officially individually identified with a permanent identification device prior to leaving the state of origin.

(b) Tuberculosis requirements.

(1) All beef cattle, bison and sexually neutered dairy cattle originating from a federally recognized accredited tuberculosis free state, or zone, as provided by Title 9 of the Code of Federal Regulations, Part 77, Section 77.8, or from a tuberculosis accredited herd are exempt from tuberculosis testing requirements.

(2) All beef cattle, bison and sexually neutered dairy cattle originating from a state or zone with anything less than a tuberculosis free state status and having an identified wildlife reservoir for tuberculosis or that have never been declared free from tuberculosis shall be tested negative for tuberculosis in accordance with the appropriate status requirements as contained in Title 9 of the Code of Federal Regulations, Part 77, Sections 77.10 through 77.19, prior to entry with results of this test recorded on the certificate of veterinary inspection. All beef cattle, bison and sexually neutered dairy cattle originating from any other states or zones with anything less than free from tuberculosis shall be accompanied by a certificate of veterinary inspection.

(3) All dairy breed animals, including steers and spayed heifers, shall be officially identified prior to entry into the state. All sexually intact dairy cattle, that are two (2) months of age or older may enter provided that they are officially identified, and are accompanied by a certificate stating that they were negative to an official tuberculosis test conducted within 60 days prior to the date of entry. All sexually intact dairy cattle that are less than two (2) months of age must obtain a entry permit from the Commission, as provided in §51.2(a) of this chapter (relating to General Requirements), to a designated facility where the animals will be held until they are tested negative at the age of two (2) months. Animals which originate from a tuberculosis accredited herd, and/or animals moving directly to an approved slaughtering establishment are exempt from the test requirement. Dairy cattle delivered to an approved feedlot for feeding for slaughter by the owner or consigned there and accompanied by certificate of veterinary inspection with a entry permit issued by the commission are exempt from testing unless from a restricted herd. In addition all sexually intact dairy cattle originating from a state or area with anything less than a tuberculosis free state status shall be tested negative for tuberculosis in accordance with the appropriate requirements for states or zones with a status as provided by Title 9 of the Code of Federal Regulations, Part 77, Sections 77.10 through 77.19, for that status, prior to entry with results of the test recorded on the certificate of veterinary inspection.

(4) All "M" brand steers, which are recognized as potential rodeo and/or roping stock, being imported into Texas from another state shall obtain a permit, prior to entry into the state, in accordance with §51.2(a) of this chapter and be accompanied by a certificate of veterinary inspection which indicates that the animal(s) were tested negative for tuberculosis within twelve months prior to entry into the state.

(5) All other cattle from foreign countries, foreign states, or areas within foreign countries defined by the Commission, with comparable tuberculosis status, would enter by meeting the requirements for a state with similar status as stated in paragraphs (1), (2) and (3) of this subsection.

(6) All sexually intact cattle, from any foreign country or part thereof with no recognized comparable Tuberculosis status.

(A) To be held for purposes other than for immediate slaughter or feeding for slaughter in an approved feedyard or approved pen, must be tested at the port of entry into Texas under the supervision of the port veterinarian, and shall be under quarantine on the first premise of destination in Texas pending a negative tuberculosis test no earlier than 120 days and no later than 180 days after arrival. The test will be performed by a veterinarian employed by the TAHC or APHIS/VS.

(B) When destined for feeding for slaughter in an approved feedyard, cattle must be tested at the port-of-entry into Texas under the supervision of the port veterinarian; moved directly to the approved feedyard only in sealed trucks; accompanied with a VS 1-27 permit issued by TAHC or USDA personnel; and "S" branded prior to or upon arrival at the feedlot.

(7) Cattle originating from Mexico.

(A) All sexually intact cattle shall meet the requirements provided for in paragraph (6) of this subsection.

(B) Steers and spayed heifers from Mexico shall meet the federal importation requirements as provided in Title 9 of the Code of Federal Regulations, Part 93, Section 93.427, regarding importation of cattle from Mexico. In addition to the federal requirements, steers and spayed heifers must be moved under permit to an approved pasture, approved feedlot, or approved pens.

(C) Cattle utilized as rodeo and/or roping stock shall meet the requirements set out in paragraph (6)(A) of this subsection and the applicable requirement listed in clauses (i) and (ii) of this subparagraph:

(i) All sexually intact cattle shall be retested annually for tuberculosis at the owner's expense and the test records shall be maintained with the animal and available for review.

(ii) All sexually neutered horned cattle imported from Mexico are recognized as potential rodeo and/or roping stock and must:

(I) be tested for tuberculosis at the port of entry under the supervision of the USDA port veterinarian;

(II) be moved by permit to a premise of destination and remain under Hold-Order, which restricts movement, until permanently identified by methods approved by the commission, and retested for tuberculosis between 60 and 120 days after entry at the owner's expense. The cattle may be allowed movement to and from events/activities in which commingling with other cattle will not occur and with specific permission by the TAHC until confirmation of the negative post entry retest for tuberculosis can be conducted; and

(III) be retested for tuberculosis annually at the owner's expense and the test records shall be maintained with the animal and available for review.

(D) Regardless of reproductive status, test history, or Mexican State of origin, Holstein and Holstein cross cattle are prohibited from entering Texas.

(E) All cattle moved into Texas from Mexico shall be identified with an "M" brand prior to moving to a destination in Texas.

(F) A copy of the certificate issued by an authorized inspector of the United States Department of Agriculture, Animal and Plant Health Inspection Service, for the movement of Mexico cattle into Texas must accompany such animals to their final destination in Texas, or so long as they are moving through Texas.

(c) Trichomoniasis Requirements:

(1) All breeding bulls entering the state ~~shall be virgin bulls not more than 1224 months of age as determined by the presence of both permanent central incisor teeth in wear, or by breed registry papers; or shall be tested negative for Trichomoniasis with an official culture test or official Polymerase Chain Reaction (PCR) test within 30 days prior to entry into the state. Bulls that have had contact with female cattle subsequent to testing must be retested prior to entry. If the b~~breeding bulls are virgin bulls they shall be individually identified by an official identification device and be accompanied with a certificate of veterinary inspection, indicating the age, breeders certification of virgin status age signed by the breeder or his representative attesting that they are virgin bulls the age. The official identification number shall be written on the breeder's certificate of veterinary inspection. ~~All bulls tested for Trichomoniasis shall be identified by an official identification device or method at the time the initial test sample is collected.~~ Official identification includes: Official Alpha-numeric USDA metal eartags (bangs tags), Official 840 RFID tags, Official 840 flap or bangle tags, and Official individual animal breed registry tattoo or breed registry individual animal brands, or official state of origin Trichomoniasis tags. ~~The identification shall be recorded on the test documents or the breeder's certificate and the certificate of veterinary inspection prior to entry. Non virgin b~~Bulls older than 12 months of age shall be tested three times not less than one week apart, for each test, by official culture test or one time by an official PCR test prior to entry into Texas. Breeding bulls, entering Texas as a recent resident, enrolled at from a CSS certified artificial insemination facilityes where the ~~animal~~bull(s) was isolated from female cattle and accompanied by documents with an original signature by the veterinarian or manager of the facility, are exempt from the test requirements. Untested bulls from out of state can enter Texas directly to a feedyard that has executed a Trichomoniasis Certified Facility Agreement, and are on a VS 1-27 permit and accompanied with an entry permit number issued by the Commission.

(2) All bulls entering Texas for the purpose of participating at fairs, shows, exhibitions and/or rodeos, which are twelve (12) months of age or older and capable of breeding may enter the state without testing ~~or certification~~ for Trichomoniasis, but shall obtain a permit, in accordance with §51.2(a) of this chapter, prior to entry ~~into the state.~~ Bulls permitted for entry into the State of Texas under the provisions of this subsection shall not be commingled with female cattle or used for breeding. Bulls that stay in the state more than sixty (60) days must be tested negative for Trichomoniasis with an ~~official culture test or~~ official PCR test.

(3) All breeding bulls entering from Mexico or from any country that does not have an established Trichomoniasis testing program, shall enter on and be moved by a permit, issued prior to entry, from the commission, in accordance with §51.2(a) of this chapter, to a premises of destination in Texas and remain under Hold Order until tested negative for Trichomoniasis with not less than three official culture tests conducted not less than seven (7) days apart, or an

official PCR test, within thirty (30) days after entry into the state. All bulls shall be maintained separate from female cattle until tested negative for Trichomoniasis. The Hold Order shall not be released until all other post entry disease testing requirements have been completed. All bulls tested for Trichomoniasis shall be identified by an official identification device or method at the time the initial test sample is collected. The identification shall be recorded on the test documents.

(4) All breeding bulls entering from Canada or from any country that has an established Trichomoniasis testing program but for which the animals are not tested to meet the certification and testing requirements of paragraph (1) of this subsection, shall enter on and be moved by a permit, issued prior to entry, from the commission, in accordance with §51.2(a) of this chapter, to a premises of destination in Texas and remain under Hold Order until tested negative for Trichomoniasis with not less than three (3) official culture tests conducted not less than seven (7) days apart, or an official PCR test within thirty (30) days of entry into the state. All bulls shall be maintained separate from female cattle until tested negative for Trichomoniasis. All bulls tested for Trichomoniasis shall be identified by an official identification device or method at the time the initial test sample is collected. The identification shall be recorded on the test documents.