

EXPLANATION OF PROPOSED RULE

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 51 entitled "Entry Requirements." The purpose of these amendments is to make the entry requirements more consistent with the current national interstate movement standards.

The Commission is amending §51.3 entitled "Exceptions" to clarify and modify requirements for sheep, goats and swine. The first amendment is providing an exception for swine consigned from out-of-state directly to slaughter or from an out-of-state premise of origin to a Texas livestock market specifically approved under the Code of Federal Regulations, Title 9, §71.20. This amendment is expanding the current exception for entry permits to include an exception to both entry permits and health certificates.

The Commission is also amending the entry permit exception for sheep and goats consigned from out-of-state to clarify it is for those originating from "Consistent States" which have an active scrapie surveillance and control program.

The Commission is removing a requirement related to Vesicular stomatitis (VS) in §51.7. VS is a viral disease that primarily affects cattle, horses, and swine and occasionally sheep, goats, llamas, and alpacas. VS has been confirmed only in the Western Hemisphere. It is known to be an endemic disease in the warmer regions of North, Central, and South America, but outbreaks of the disease in other temperate geographic parts of the Hemisphere occur sporadically. The Southwestern and Western United States have experienced a number of vesicular stomatitis outbreaks in recent years. Outbreaks in the Southwestern United States have usually occurred during the warmer months, often along waterways and in valleys.

Currently, when an animal comes from a state where VS has been diagnosed, the Certificate of Veterinary Inspection (CVI) must state that for any equine, bovine, porcine, caprine, ovine, or cervidae entering Texas from a state where vesicular stomatitis has been diagnosed within the last 30 days that they have not been exposed. Through agency experience and by analyzing cases in the Western United States over the past decade, the agency has found that VS does not appear to be particularly contagious. It rarely affects more than one or two animals on a premise and has not been shown to spread to susceptible animals on adjacent premises. The Commission is of the opinion that discontinuing the requirement for a CVI and accompanying statement will allow more normal commerce without jeopardizing the health of Texas livestock. The requirement prohibiting entry of certain livestock from a premises or area under quarantine for vesicular stomatitis will be left in place to protect Texas livestock.

In §51.14, the Commission is removing the requirement that swine imported into Texas for feeding, breeding, or exhibition purposes must be accompanied by a certificate of veterinary inspection certifying that swine have not been exposed to hog cholera, which is now called Classical Swine Fever (CSF). CSF has been eradicated from the United States for many years and there is no need to require this statement anymore.

FISCAL NOTE

Dr. Matt Cochran, Assistant Executive 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.

PUBLIC BENEFIT NOTE

Dr. Cochran has also determined that for each year of the first five (5) years the rules are in effect, the public benefit anticipated as a result of enforcing the rules will be to protect our livestock industry from exposure to disease by ensuring these animals are properly tested.

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 Title 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 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 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, 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.

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

51.3. Exceptions

(a) Exceptions for a certificate of veterinary inspection and entry permit.

(1) Cattle 18 months of age and over delivered directly from the farm of origin to slaughter;

(2) Beef breed cattle 18 months of age and over entering from other than a farm-of-origin may be moved to slaughter, or to an approved feedyard when accompanied by a VS 1-27 Form on which each animal is individually identified. Brucellosis test data shall be written on the VS 1-27 Form which must include the test date and results;

(3) Beef breed cattle 18 months of age and over delivered directly to a USDA specifically approved livestock market by the owner or consigned there and accompanied by a waybill;

(4) Beef breed steers, spayed heifers, beef breed cattle under 18 months of age, delivered to slaughter and accompanied by a waybill or to a livestock market by the owner or consigned there and accompanied by a waybill;

(5) Beef breed steers, spayed heifers and beef breed cattle under 18 months of age delivered to a feedlot for feeding for slaughter by the owner or consigned there and accompanied by a waybill;

(6) Swine and poultry delivered to slaughter by the owner or consigned there and accompanied by a waybill;

(7) Baby poultry which have not been fed or watered if from a national poultry improvement plan (NPIP) or equivalent hatchery, and accompanied by NPIP Form 9-3 or Animal and Plant Health Inspection Service (APHIS) Form 17-6, or have an approved "Commuter Poultry Flock Agreement" on file with the state of origin and the Texas

Animal Health Commission;

(8) Beef breed steers, spayed heifers, and beef breed cattle under 18 months of age originating in New Mexico which are accompanied by a New Mexico official certificate of livestock inspection;

(9) Feral Swine being shipped directly to slaughter. Feral swine shall be shipped in a sealed vehicle accompanied by a 1-27 permit with the seal number noted on the permit also providing the number of head on the permit; and

(10) Equine when accompanied by a valid equine interstate passport or equine identification card and a completed VS Form 10-11 showing negative results to an official EIA test within the previous six months.

(11) Swine consigned from out-of-state directly to slaughter or from an out-of-state premise of origin to a Texas livestock market specifically approved under the Code of Federal Regulations, Title 9, §71.20.

(b) Exceptions for a certificate of veterinary inspection. Equine may enter Texas when consigned directly to a veterinary hospital or clinic for treatment or for usual veterinary procedures when accompanied by a permit number issued by the Texas Animal Health Commission. Following release by the veterinarian, equidae must be returned immediately to the state of origin by the most direct route. Equine entering Texas for sale at a livestock market, may first be consigned directly to a veterinary hospital or clinic for issuance of the certificate of veterinary inspection, when accompanied by a prior entry permit issued by the Texas Animal Health Commission.

(c) Exceptions for an entry permit.

~~(1) Swine consigned from out of state directly to slaughter or from an out of state premise of origin to a Texas livestock market specifically approved under the Code of Federal Regulations, Title 9, §71.20;~~

(12) Swine that originate from an approved Swine Commuter Herd or that originate from a Pseudorabies Stage IV or V state or area and Brucellosis free state or area and are not vaccinated for pseudorabies;

~~(23) Poultry that originate from an approved Poultry Commuter Flock;~~

~~(34) Cattle that originate from an approved Cattle Commuter Herd;~~

~~(45) Equine accompanied by a valid equine interstate passport or equine ID card and a completed VS Form 10-11 showing negative results to an official EIA test within the previous six months;~~

~~(56) Sheep and goats consigned from out-of-state and originating from Consistent States (having an active scrapie surveillance and control program); and~~

~~(67) Exotic fowl from out of state, except ratites.~~

51.7. All Livestock – Special Requirements

(a) Scabies.

(1) Livestock originating in scabies quarantined areas outside the State of Texas. Livestock originating in scabies quarantined areas outside the State of Texas must, in addition to other requirements, be accompanied by a certificate of veterinary inspection

certifying that the herd of origin has been inspected and declared free of scabies infestation or exposure. Slaughter livestock originating in a quarantined area and consigned directly to an approved slaughter establishment for immediate slaughter must be accompanied by a certificate of veterinary inspection or a VS Form 1-27 permit issued by state or federal regulatory personnel certifying they are "scabies free."

(2) Any treated livestock. Any treated livestock must be accompanied by a certificate issued by state or federal regulatory personnel identifying the livestock treated and stating the date of treatment. If the livestock enter less than 14 days following treatment, the transporting vehicle must be placarded and billing marked in accordance with the Code of Federal Regulations. The livestock have been officially treated by one of the following methods:

(A) Dipping. The livestock have been dipped in Co-Ral or GX 118 (Prolate) under supervision of state or federal regulatory personnel within 10 days prior to shipment and transported in clean and disinfected vehicles.

(B) Ivermectin.

(i) The livestock have been treated with Ivermectin within 21 days prior to entry under the supervision of state or federal regulatory personnel in accordance with label directions.

(ii) The treated livestock must be kept physically separated from all untreated livestock for 21 days following treatment.

(iii) Ivermectin may not be used with female dairy cattle of breeding age. Livestock treated with Ivermectin must be withheld from slaughter according to label directions.

(C) Dectomax.

(i) The livestock have been treated with Dectomax within 21 days prior to entry under the supervision of state or federal regulatory personnel in accordance with label directions.

(ii) The treated livestock must be kept physically separated from all untreated livestock for 21 days following treatment.

(iii) Dectomax may not be used with female dairy cattle of breeding age, preruminating calves, or calves to be processed for veal. Livestock treated with Dectomax must be withheld from slaughter according to label directions.

(b) Screwworm Requirements. All animals presented for entry into Texas from any area in which the screwworm is known to exist must be free of screwworms and screwworm fly eggs. Wounds (infested or noninfested) must be treated with United States Department of Agriculture approved screwworm killer and fly repellent. Animals other than lactating dairy animals and young animals under two weeks of age must be sprayed with a spray approved by the executive director.

(c) Fever Tick Requirements. All movement of livestock from or into the Texas Fever Tick Eradication Zone shall be in accordance with Chapter 41 of this Title.

(d) Vesicular Stomatitis.

(1) No equine, bovine, porcine, caprine, ovine, or cervidae may enter Texas from a premise or area under quarantine for vesicular stomatitis.

~~(2) Any equine, bovine, porcine, caprine, ovine, or cervidae entering Texas from a state where vesicular stomatitis has been diagnosed within the last 30 days must be accompanied by a Certificate of Veterinary Inspection with the following statement written by the accredited veterinarian on the Certificate: "The animals represented on this health certificate have not originated from a premise or area under quarantine for vesicular stomatitis."~~

(e) Regulations on livestock imported from Mexico.

(1) All cattle moved into Texas from Mexico shall be identified with an "M" brand prior to moving to a destination in Texas. Metal ear tags applied in Mexico must not be removed from the animals.

(2) 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.

51.14. Swine

(a) Swine imported into Texas for feeding, breeding, or exhibition purposes shall be accompanied by a certificate of veterinary inspection certifying that:

- (1) swine have not been fed garbage, either raw or cooked;
- (2) swine have not been exposed to ~~hog cholera~~ or pseudorabies;
- (3) swine have not been vaccinated for pseudorabies; and
- (4) swine have been permanently identified (ear tag, ear notched, or number tattoo).

(b) Swine not known to be infected with or exposed to pseudorabies, and originate from a state not classified as Stage IV or V, may enter provided they:

(1) are tested negative within 30 days prior to entry and then held in isolation and under quarantine on the premise where first unloaded and tested or retested for PRV in not less than 30 nor more than 60 days after arrival. Feeder swine are exempt from the retest provided that the swine enter on an entry permit from the commission and are destined directly to a designated feedlot and remain restricted to the feedlot until they are sent to slaughter; or

(2) originate from a qualified PRV-negative herd; or

(3) are shipped directly from a farm of origin in a Stage IV or free state or area as described in the National PRV Program; or

(4) originate from and are sold at an approved feeder-pig market in a Stage IV or free state or area and enter the state directly from that market.

(c) Additionally, breeding swine shall have a negative brucellosis test within the previous 30 days or originate from a validated brucellosis-free herd or state and shall be vaccinated within the previous 30 days with Leptospirosis vaccine containing the following strains: Canicola, Hardjo, Icterohaemorrhagiae, Grippotyphosa, and Pomona.

(d) Exhibition swine originating in Texas entered in terminal shows are exempt from brucellosis and pseudorabies requirements.

(e) Swine imported into Texas for slaughter purposes shall either be consigned directly to slaughter or to a federally approved livestock market where a VS 1-27 will be issued to accompany them to slaughter following sale.