

The Texas Animal Health Commission (Commission) proposes amendments to §51.8, concerning Cattle, and §51.10, concerning Cervidae, in Chapter 51, which is entitled "Entry Requirements". The purpose of the amendments is to change the Bovine Trichomoniasis (Trich) testing requirements and the Cervidae entry requirements.

The Trich control program was an industry driven initiative that was implemented in 2009. The concept included an annual review by TAHC staff and interested stakeholder organizations of the program's rules and policies and to subsequently suggest non-binding recommendations to the Commission. The Trich Working Group met on May 15, 2012, to evaluate the Trich program. The group discussed the program overview to date, the management of infected herds, entry requirements, and ultimately discussed the need for possible changes to the program. There were two recommendations for rule changes for the interstate movement of breeding bulls into Texas that the Commission is proposing to consider. The first is to allow a bull to enter Texas on a laboratory pooled negative test sample (no greater than 5 total in sample). The second is to lengthen the time which a test result is valid from 30 days to 60 days to coincide with the existing intrastate time limit for a valid negative test.

The Commission announced in June it had been determined that red deer (*Cervus elaphus*), and Sika deer (*Cervus Nippon*) are "susceptible species" for Chronic Wasting Disease (CWD) and therefore must meet the same entry requirements as other cervid species regulated by the agency such as elk and moose. The new entry rules for red deer and Sika deer will require they originate from herds with at least five years of participation in an approved CWD status program. The agency decision was based in part on the disclosure that a farmed Red deer herd in Minnesota was confirmed positive for CWD in May of this year. Also, the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) recently announced an interim final rule to establish a national Chronic Wasting Disease (CWD) Herd Certification Program (HCP) and minimum requirements for interstate movement of deer, elk and moose, or cervids, in the United States. Participation in the program will be voluntary. The interim final rule amends the Agency's 2006 final rule which was never put into effect. These amendments to their CWD rule are intended to help control the spread of this disease by establishing minimum program standards for interstate movement. The federal Chronic Wasting Disease Herd Certification Program is found in 9 CFR Subchapter B, Part 55. As part of that rule change they are establishing that these species need to have participated for a minimum of five years in a CWD approved status program in order to move interstate. In recognition the Commission is amending the entry requirements to remove the three year standard for cervid originating from states that had not detected CWD within their borders.

## **FISCAL NOTE**

Mr. Sami Chadli, Director for Administration and Finance, 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 these rules poses no significant fiscal impact on small or micro-businesses.

### **PUBLIC BENEFIT NOTE**

Mr. Chadli, 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 conform our entry requirements to the standards accepted and utilized by other states and USDA.

### **LOCAL EMPLOYMENT IMPACT STATEMENT**

<p>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 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 Texas 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 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.

### **51.8. Cattle.**

(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 an 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 more than 12 months of age shall be tested negative for Trichomoniasis with an official Polymerase Chain Reaction (PCR) test within ~~60~~ 30 days prior to entry. Trichomoniasis samples pooled at the laboratory may qualify as the official test if no more than five total samples are pooled. Breeding bulls shall be individually identified by an official identification device and be accompanied with a certificate of veterinary inspection, indicating the age. The official identification number shall be written on the certificate of veterinary inspection. 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. Bulls older than 12 months of age shall be tested one time by an official PCR test prior to entry into Texas. Breeding bulls, entering Texas as a recent resident, enrolled at a CSS certified artificial insemination facility where the 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 for Trichomoniasis, but shall obtain a permit, in accordance with §51.2(a) of this chapter, prior to entry. 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 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.

#### **51.10. Cervidae.**

(a) Chronic Wasting Disease (CWD). If either the Commission or Texas Parks and Wildlife Department issues a quarantine or a prohibition on susceptible species entering the state, that quarantine or prohibition supersedes these rules for the quarantined species. This includes white-tailed deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*), black-tailed deer (*Odocoileus hemionus columbianus*), North American elk or wapiti (*Cervus Canadensis*), red deer (*Cervus elaphus*), Sika deer (*Cervus Nippon*), moose (*Alces alces*), and any associated subspecies and hybrids ~~All black-tailed deer and elk~~ (or other cervid species determined to be susceptible to CWD, which means an animal that has had a diagnosis of CWD confirmed by means of an official test conducted by a laboratory approved by USDA/APHIS) shall obtain an entry permit from the Commission prior to entering Texas. All mule deer and white-tailed deer are also required to obtain an entry permit from the Texas Parks and Wildlife Department in order to enter the state. All requests for entry must be made in writing and accompanied with the

information necessary to support import qualifications of the animal(s). This should be received by the TAHC at least ~~ten~~ 10 working days prior to the proposed entry date. The processing of the application can be expedited by assuring that all of the necessary documentation has been provided and that the necessary staff is available for review. The application must be accompanied by an owner's statement stating that to his/her knowledge the animals (or donor animals) to be imported have never come in contact with equipment or resided on a premise where CWD was ever diagnosed.

(b) Requirements for entry. The applicant must identify the herd of origin and the herd of destination on both the permit application and the certificate of veterinary inspection. The cervid(s) to be imported into this state, shall be identified to their herd of origin by a minimum of two official/approved unique identifiers to include, but not limited to, legible tattoo, USDA approved eartag, breed registration, RFID device or other state approved permanent identification methods. If a microchip is used for identification, the owner shall provide the necessary reader. The shipment shall be accompanied by a certificate of veterinary inspection completed by an accredited veterinarian. Additionally, the ~~applicant~~ herd of origin must provide documentation meet the following criteria: showing that the animal(s) originate from a herd that has successfully participated in a complete CWD herd certification program that is in compliance with the interstate movement requirements of the July 2012, USDA Edition of "Chronic Wasting Disease Program Standards" and the Code of Federal Regulations, Title 9, Parts 55 and 81, for a minimum of five years.

(1) In states where there is a state approved CWD monitoring program which meets the requirements provided in subsection (c) of this section and where CWD has not been identified in a susceptible species, then all elk, white-tailed deer, mule deer and black-tailed deer to be imported must originate from a herd that has been in a state-approved complete herd certification program for a minimum of three (~~3~~) years (or current federal standards).

(2) From states which do not have a CWD monitoring program which meets the standards provided in subsection (c) of this section and where CWD has not been identified in a susceptible species, then all elk, white-tailed deer, mule deer and black-tailed deer shall originate from herds that have complete herd records, including, but not limited to, complete and detailed herd inventories, records of deaths, laboratory results, and sales and purchase receipts, for a minimum of five (~~5~~) years. Complete documents which support this type of status shall be submitted with the permit application.

(3) In states where CWD has been identified in a susceptible species, then all elk, white-tailed deer, mule deer and black-tailed deer (or other susceptible species) to be imported must originate from a herd that has been in a state-approved complete herd monitoring program, as provided for in subsection (c) of this section for a minimum of five (~~5~~) years.

~~(c) A state approved chronic wasting disease monitoring program must be certified by the Texas state veterinarian as meeting the following minimum standards:~~

~~(1) In states where CWD has been found in free-ranging wildlife, the state program shall have perimeter fencing requirements adequate to prevent ingress, egress or contact with susceptible cervids.~~

~~(2) Surveillance based on testing of susceptible cervid deaths over 16 months of age is required of all herds within a complete herd monitoring program. Surveillance at commercial slaughter and at shooter operations should be at least 10 percent of the number slaughtered annually.~~

~~(3) A good quality sampling program where state and federal officials have the authority to adjust herd status if poor quality samples, particularly samples that are from the wrong portion of the brain, are routinely submitted from a premise. Laboratory analysis of the brain stem by a USDA approved lab is recognized as the current standard for CWD diagnosis. Other laboratory analyses may be accepted as validated or accepted by USDA/APHIS.~~

~~(4) Physical herd inventory with annual verification reconciling animals and identification with records by an accredited veterinarian or state or federal personnel is required. Inventory is to include a cross-check of all animal identifications with the herd inventory and specific information on the disposition of all animals not present.~~

~~(5) Premise locations must be specifically identified by GPS or detailed description during the initial herd inventory.~~

~~(6) Herd additions are allowed from herds with equal or greater time in an approved state CWD monitoring program with no negative impact on the certification status of the receiving herd. If herd additions are acquired from a herd with a later date of enrollment, the receiving herd reverts to the enrollment date of the sending herd. If a herd participating in the monitoring program acquires animals from a non-participating herd, the receiving herd must start over with a new enrollment date based upon the date of acquisition of the animal(s). If a new herd begins with animals of a given status, that status will be retained by the new herd, based upon the lowest status of animals received. Animals of different status which are commingled during marketing or transport will revert to the lowest status.~~

~~(7) Elk, white-tailed deer, mule deer and black-tailed deer will only be allowed to enter the state of Texas if the state of origin lists CWD as a reportable disease and imposes an immediate quarantine on a herd and/or premise when a CWD positive animal is disclosed.~~

~~(8) Animal health officials in the state of origin must have access to herd records for the appropriate number of years (three to five), including records of deaths and causes of death.~~

~~(c) (d) Tuberculosis. No animal with a response to any tuberculosis test is eligible for entry unless that animal is subsequently classified negative for tuberculosis based upon an official tuberculosis test, or is consigned directly to slaughter.~~

(1) Accredited-Free herds. Cervids that originate from Accredited-Free herds may enter without further tuberculosis testing provided they are accompanied by a certificate stating such cervids originated from an Accredited-Free herd.

(2) Qualified herds. Cervids not known to be affected with or exposed to tuberculosis that originate from Qualified herds may enter if they are accompanied by a certificate stating

that such cervids originate from a qualified herd and have been classified negative to an official tuberculosis test, which was conducted within 90 days prior to the date of movement. If the qualifying herd test was administered within 90 days of movement, the animal(s) do not require an additional test.

(3) Monitored herds. These cervids not known to be affected with or exposed to tuberculosis that originate from Monitored herds may enter if they are accompanied by a certificate stating that such cervids originate from a monitored herd and have been classified negative to an official tuberculosis test, which was conducted within 90 days prior to the date of movement.

(4) All other herds. These cervids not known to be affected with or exposed to tuberculosis that originate from all other herds may enter if they are accompanied by a certificate stating that such cervids have been classified negative to two official tuberculosis tests, which were conducted no less than 90 days apart; that the second test was conducted within 90 days prior to the date of movement; and that the animals were isolated from all other members of the herd during the testing period.

(5) Cervids less than 12 months of age that originate from and were born in accredited, qualified, or monitored herds. These cervids may enter without further tuberculosis testing provided they are accompanied by a certificate stating that such cervids originated from such herds and have not been exposed to cervids from a lower status.

(6) American Zoo and Aquarium Association (AZAA) accredited facility. Cervids moving from an American Zoo and Aquarium Association (AZAA) accredited facility directly to another facility accredited by the AZAA are exempt from these entry requirements provided those cervids being moved are not commingled with cervids from other sources during the transfer. Cervids sold or transferred from an AZAA accredited facility located either in Texas or another state to an owner/agent in Texas, other than another AZAA accredited facility, must comply with these testing requirements.

(7) TB restricted area in Michigan. Cervids originating from the TB restricted zone(s) in Michigan 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, §§77.10 - 77.19, prior to entry with results recorded on the certificate of veterinary inspection.