

The Texas Animal Health Commission (commission) proposes amendments to §55.5, concerning Pseudorabies, in Chapter 55 entitled “Swine”. The purpose of the amendment is to update the test timeframes for releasing swine which were quarantined for being exposed to Pseudorabies (PRV). This is in accordance with the Uniform Methods and Rules issued by USDA Veterinary Services regarding the national PRV eradication programs.

The proposal changes §55.5(e)(7)(C) which requires two consecutive negative herd tests, not less than 60 days from removal of the last reactor, to qualify for release from quarantine for PRV infected herds. The proposal will allow for release from quarantine with one negative herd test no less than 30 days from removal of the last reactor. The justification for this proposal is based on the fact that a herd of swine are not classified as a known infected herd when no livestock or other animals on the premises show clinical signs of PRV after a negative test 30 days or more after removal of all positive swine. Long term observation in the field provides sufficient evidence that the incubation of PRV is well within the 30-day time frame to allow for identification of recently infected animals if active transmission is occurring.

#### **FISCAL NOTE**

Mr. Sami Chadli, Director of Administration and Finance, Texas Animal Health Commission, has determined for the first five-year period the rule is 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**

Mr. Chadli, has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to conform test requirements to the release standards to those accepted and utilized by other states and USDA.

#### **LOCAL EMPLOYMENT IMPACT STATEMENT**

In accordance with Texas Government Code §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 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 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 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 161.061 provides that 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 where 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.

Chapter 165 of the Texas Agriculture Code entitled "Control of Diseases of Swine" has several sections which also provide statutory authority for these amendments. Section 165.021 entitled "Cooperation with United States Department of Agriculture" provides that the commission may cooperate with USDA in the eradication of swine diseases. Also, §165.022 provides that the commission may adopt rules for the manner and method

of eradicating swine diseases. Under §165.023, the commission is authorized to adopt rules governing the use of biologics.

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

### **55.5. Pseudorabies.**

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless indicated otherwise.

(1) Approved feeder pig market--A livestock market where only feeder pigs from the following herds of origin are accepted for sale in accordance with federal interstate regulations and applicable provisions of the program standards:

- (A) pseudorabies qualified negative herd;
- (B) pseudorabies monitored herd;
- (C) official 30-day pseudorabies serologic test of each animal; or
- (D) from a Stage IV or V state.

(2) Approved slaughter market--A livestock market at which shipments of slaughter swine only are permitted in accordance with applicable state and federal regulations. No swine may be released from an approved slaughter market unless consigned directly to a recognized slaughtering establishment for immediate slaughter.

(3) Commercial Production Swine (Commercial Swine)--Those swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production swine or feral swine.

(4) Commission--Texas Animal Health Commission.

(5) Continuous flow feedlot--A premise on which there is a constant population of swine in various stages of finish, being fed for slaughter purposes.

(6) Direct shipment--Movement without unloading en route, without contact with swine of lesser pseudorabies status, and without contact with infected or exposed livestock.

(7) Farm of origin--A farm where the swine were born, or on which they have resided for a least 60 consecutive days immediately prior to movement.

(8) Official random sample test--A sampling procedure utilizing official pseudorabies serologic tests which provides a 95% probability of detecting infection in a herd in which at least 5.0% of the swine are seropositive for pseudorabies. Each segregated group of swine on an individual premises must be considered a separate herd and sampled as follows:

- (A) less than 100 head--test 45 or entire herd, whichever is the smaller;
- (B) 100-200 head--test 51;
- (C) 201-999 head--test 57;
- (D) 1,000 and over--test 59.

(9) Recognized tests--Tests for the diagnosis of pseudorabies approved by USDA, APHIS, VS. Those tests are:

- (A) microtitration serum-virus neutralization;
- (B) virus isolation and identification;
- (C) fluorescent antibody tissue section;
- (D) Enzyme Linked Immunosorbent Assay (ELISA);
- (E) latex agglutination.

(10) Transitional Production Swine--Swine that have a reasonable opportunity to be

exposed to feral swine or captive feral swine.

(b) Commercial Swine: To qualify as a producer of commercial swine, the producer must implement sufficient safeguards (i.e management practices, perimeter fencing, confinement etc) to prevent commingling or ensure that nose to nose contact with feral or transitional swine cannot ~~can not~~ occur. Feral swine shall not be intentionally commingled with commercial swine.

(c) Animal Identification. Breeding swine sold or destined for slaughter are required to be identified, using a method recognized by the commission, to the farm-of-origin.

(d) Movement Restrictions: All herds suspicious of PRV will be placed under movement restrictions and investigated pending final determination. Final determination of the presence or absence of PRV in a herd shall be made by the investigating veterinarian in consultation with official pseudorabies epidemiologist. Official diagnosis shall be based on standard diagnostic procedures including the serum neutralization or other recognized tests.

(e) Pseudorabies Management of Infected, Exposed or Area Herds

(1) If an animal is determined to be infected with PRV, it shall be identified by placing a red serially numbered reactor tag in the left ear. The infected herd shall be disposed of within 15 days after test results are reported. Disposition may include destruction or permitted to slaughter by a VS 1-27.

(2) Following a determination that a herd is infected, a herd plan to eradicate the disease from a swine herd will be developed. The plan shall be developed by a state/federal veterinarian of the swine pseudorabies control program in consultation with the herd owner or caretaker and his veterinarian. The plan shall include provisions for release of quarantine as specified in this subsection. The plan developed by the commission shall be final and the owner or caretaker will be provided a copy.

(3) All exposed herds will be placed under movement restrictions, using a quarantine or hold order, until results of exposure are determined.

(4) All swine herds within a 2.0 mile radius of infected premises will be monitored either by a test of all breeding swine or an official random sample test. All exposed swine herds as determined by epidemiological investigation and all swine herds within 2 miles of the new case shall be tested with an official sample test (95/5). Testing of the herds must be accomplished, with negative test results, no earlier than 30 days and no later than 60 days after depopulation of the affected herd and of the premises.

(5) Swine showing clinical signs of PRV shall not be removed from the premises. Swine on a quarantined premise not showing clinical signs of PRV may be moved only directly to a slaughter plant and accompanied by a permit issued by a state or federal inspector, or may be shipped directly to a slaughter plant in an official sealed vehicle, when accompanied by a permit.

(6) Vehicles used for slaughter delivery of restricted swine will be cleaned and disinfected immediately after unloading and prior to loading with other livestock.

(7) Movement Restrictions will be released in the following instances:

(A) when all reactor animals have been removed from the premise;

(B) when there have been no clinical signs of PRV on the premises after removal of the reactor swine; and

(C) when all exposed swine over six months of age along with a number of progeny equal to 20% of the breeding swine selected from the oldest portion of swine under six months of age remaining in the herd have withstood one ~~two consecutive~~ negative herd test

~~tests. The test first of these must be conducted not less than 30 days from removal of last infected animals and the second test coming not less than 30 days from the first test.~~

Herd additions must be tested negative prior to being added to the herd, remain on the premises 30 or more days, and be retested negative; or

(D) when all swine on the premises are depopulated; the premises are cleaned and disinfected under the direction of state or federal personnel and 30 days have passed with no swine on the premises following cleaning and disinfecting.

(f) PRV vaccine.

(1) Vaccination of swine with a PRV vaccine is prohibited without written permission of the executive director. Written permission may be granted only for use in high risk herds or as part of an approved herd-cleanup plan.

(2) Approved PRV vaccine shall be a product for which there is a laboratory test approved by the executive director available to differentiate between vaccine and field infection titers.

(3) The executive director of the Texas Animal Health Commission will restrict the sale of approved PRV vaccine to a practicing accredited veterinarian for use only in infected and high risk herds. Official state laboratory confirmation of PRV constitutes an infected herd. The executive director will request a specific number of doses of vaccine to be shipped to the practicing veterinarian making the request.

(4) The herd owner will sign a memorandum of understanding with the Texas Animal Health Commission, and the practicing veterinarian will be accountable for the vaccine and its use by signing an agreement to this effect.

(5) All vaccinated animals are to be marked with a hole punched in the left ear of not less than 1/2 inch in diameter at the time of vaccination.

(6) The movement restrictions will be released as provided for in this section utilizing an approved test that will identify vaccine titers.

(g) Qualified pseudorabies negative herd.

(1) Qualified PRV negative herd status is attained by 100% testing of the adult breeding herd over six months of age plus a number of progeny equal to 20% of the breeding swine population in the herd and finding them negative to an official pseudorabies serologic test. Progeny shall be randomly selected from the oldest swine in the herd less than six months of age. The herd must not have been a known infected herd within the past 30 days. A minimum of 90% of the swine in the herd must have been on the premises and part of the herd for at least 60 days prior to the qualifying official pseudorabies serologic test, or have entered directly from another qualified pseudorabies negative herd.

(2) Qualified pseudorabies negative herd status is maintained by conducting an official pseudorabies serologic test on at least 80% of the swine over six months of age and on a number of progeny equal to 20% of the breeding swine population of the herd at least once each year. All swine tested shall be randomly selected and in the case of adult swine, representative of all age groups on the premises. This must be accomplished by testing 25% of the required breeding swine and progeny every 80 to 105 days and finding all swine so tested negative, or by testing 10% of the required breeding swine and progeny each month and finding all swine so tested negative.

(3) If on a qualifying official pseudorabies serologic test or any subsequent official pseudorabies test, any swine are tested positive, qualified pseudorabies negative herd status is suspended until the infection status of the herd is determined through testing and an epidemiological study of the herd. Before qualified pseudorabies negative herd status

may be attained or maintained, all seropositive swine must be sold for slaughter and the herd tested and released from movement restrictions as provided for in this section. Herd additions must be tested negative with the SN or any recognized PRV test within 30 days prior to entry on the premises; isolated at least 30 days and retested prior to adding them to the herd or:

(A) moved directly from another qualified PRV negative herd;

(B) added from another qualified pseudorabies negative herd, but with interim contact with swine other than those from a single qualified pseudorabies negative herd, isolated until they have been found negative to an official pseudorabies serologic test, conducted 30 days or more after the swine have been placed in isolation;

(C) isolated upon return to the herd after contact with swine other than those from a single qualified pseudorabies negative herd. They shall be isolated until found negative to an official pseudorabies serologic test conducted 30 days or more after being placed in isolation.

(4) Test records will be maintained by the Texas Animal Health Commission at its Austin office. Herd owners will receive a letter from the executive director of the Texas Animal Health Commission listing test dates, test results, the laboratory in which test was run, and the qualified herd status of the herd.

(h) Requirements for a pseudorabies monitored feeder pig herd. To qualify as a monitored feeder pig herd, breeding swine must have been sampled and tested negative by an official pseudorabies serologic test during the last 12 months at the following rate:

(1) 10 head--test all;

(2) 11 to 35 head--test 10;

(3) 36 or more--test 30% or 30, whichever is less. Breeding swine that are tested are to be selected at random from all age groups, including herd boars, with all groups to be proportionately represented.

(i) Requirements for continuous flow feedlots on premises on which there are no breeding animals. When provisions of the State-Federal-Industry Program Standards for Pseudorabies Eradication require surveillance testing of these feedlots for advancement of the state to the next stage of the eradication program, one of the following methods will be used to satisfy this requirement.

(1) Collection of blood from a random sample of swine in the feedlot in the following representation:

(A) less than 100 head in the feedlot--test 25;

(B) 100-200 head--test 27;

(C) 201-999 head--test 28;

(D) 1,000 and over--test 29.

(2) Collection of blood from swine consigned from feedlot at slaughter using the criteria shown in paragraph (1) of this subsection, to determine the number of swine to be tested.

(j) Owner assistance. If ordered by the commission or its representative, the owner or caretaker of swine shall submit the swine and furnish labor and facilities used in normal operation in order that the swine may be tested, vaccinated, or otherwise handled in accordance with these rules.