

The Texas Animal Health Commission (commission) proposes amendments to §41.6, concerning Restrictions on Movement of Livestock, and §41.9, concerning Vacation and Inspection of a Premise, in Chapter 41, which is entitled “Fever Ticks.” The purpose of the amendments is to add a requirement that all livestock on or moved from a control purpose quarantine area, temporary preventative quarantine area or tick eradication quarantine area, as defined by §41.4, be identified with permanent official identification.

The purpose of the Texas Cattle Fever Tick Eradication Program is to eradicate the Fever Tick through the management of a permanent quarantine zone, as well as temporary quarantine areas created to address the presence of ticks outside the permanent zone. To be more effective in the efforts to eradicate Fever Ticks, the commission adopted requirements that went into effect on June 12, 2013, which require permanent and official identification of all livestock maintained in the permanent quarantine zone.

In October 2014, the commission established a Temporary Preventative Quarantine Area (TPQA) in portions of Cameron County after the presence of fever ticks was confirmed on premises located outside the permanent zone in that county. With the creation of a new TPQA, there is a significant amount of effort required to control and eradicate Fever Ticks through the inspection and treatment of livestock located in the TPQA as well as other premises quarantined for infestation or exposure to Fever Ticks. In order to ensure that all high-risk livestock are inspected and treated, it is necessary to expand the identification requirement to all livestock maintained on or moving from quarantined areas, premises or properties.

The individual identification of livestock is necessary to maintain inventories of cattle in all herds within the TPQA, Control Purpose Quarantine Areas, and for those individual quarantines that extend outside of the TPQA to ensure that all animals within the high risk areas are accountable to a premises, have received routine inspection and treatment, and have legally been authorized to move between premises within and from the designated areas.

The identification of cattle with RFID provides an efficient and effective method of accomplishing unique individual animal identification. The identification are provided by the TAHC and APHIS without cost to the affected producers. Identification of cattle with an RFID can be efficiently saved into the agency supported database for each inspection, treatment, and authorized movement. The electronic storage of these records substantially supports an efficient method of disease traceability. This system has been successfully implemented in the permanent quarantine zone for over one year with favorable acceptance from the cattle industry operating in this region.

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 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, or to individuals. This requirement would apply to those already restricted by a fever tick quarantine. As such, these cattle must be routinely inspected and scratched for fever ticks, and this inspection provides an opportunity to apply identification. In addition, the commission provides official identification to producers at no cost.

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 inspection and the use of identification as an effective and necessary action to control and eradicate fever ticks from a herd in an efficient manner.

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 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 Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by email at “comments@tahc.texas.gov”.

STATUTORY AUTHORITY

The amendments are proposed under the following statutory authority as found in Chapters 161 and 167 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, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.005, entitled “Commission Written Instruments”, 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.

Pursuant to §161.007, entitled “Exposure or Infection Considered Continuing”, if a veterinarian employed by the commission determines that a communicable disease exists among livestock, domestic animals, or domestic fowl or on certain premises or that livestock, domestic animals, or domestic fowl have been exposed to the agency of transmission of a communicable disease, the exposure or infection is considered to continue until the commission determines that the exposure or infection has been eradicated through methods prescribed by rule of the commission.

Pursuant to §161.048, entitled “Inspection of Shipment of Animals or Animal Products”, the commission 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.

Pursuant to §161.054, entitled “Regulation of Movement of Animals”, 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.

Pursuant to §161.056(a), entitled “Animal Identification Program”, the commission, in order to provide for disease control and enhance the ability to trace disease-infected animals or animals that have been exposed to disease, may develop and implement an animal identification program that is no more stringent than a federal animal disease traceability or other federal animal identification program. Section 161.056(d) authorizes the commission to by a two-thirds vote adopt rules to provide for an animal identification program more stringent than a federal program only for control of a specific animal disease or for animal emergency management.

Pursuant to §161.057, entitled “Classification of Areas”, the commission by rule may prescribe criteria for classifying areas in the state for disease control. The criteria must be based on sound epidemiological principles. The commission may prescribe different control measures and procedures for areas with different classifications.

Pursuant to §161.061, entitled “Establishment”, 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 or 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.

Pursuant to §161.081, entitled “Importation of Animals”, the commission by rule may regulate the movement, including movement by a railroad company or other common carrier, of livestock, exotic livestock, domestic animals, domestic fowl, or exotic fowl into this state from another state, territory, or country.

Pursuant to §167.003, entitled “General Powers and Duties of the Commission”, the commission shall eradicate all ticks capable of carrying Babesia in this state and shall protect all land, premises, and livestock in this state from those ticks and exposure to those ticks. In carrying out this chapter, the commission may adopt necessary rules.

Pursuant to §167.004, entitled “Classification of Animals or Premises as Infested, Exposed or Free from Exposure”, the commission by rule shall define what animals and premises are to be classified as exposed to ticks. The commission shall classify as exposed to ticks livestock that have been on land or in an enclosure that the commission determines to be tick infested or exposed to ticks or to have been tick infested or exposed to ticks before or after the removal of the livestock, unless the commission determines that the infestation or exposure occurred after the livestock were removed and that the livestock did not become infested or exposed before removal.

Section 167.006 authorizes the commission to designate for tick eradication any county or part of a county that the commission determines may contain ticks. Section 167.007 authorizes the commission to conduct tick eradication in the free area. Section 167.021, entitled “General Quarantine Power” provides that the commission may establish quarantines on land, premises, and livestock as necessary for tick eradication. Section 167.022, entitled “Quarantine of Tick Eradication Area” provides that the order designating a county or part of a county for tick eradication shall contain a provision quarantining that county or part of a county. Section 167.023, entitled “Quarantine of Free Area” provides the commission authority to establish a quarantine in the free area. Section 167.024, entitled “Movement In or From Quarantined Area” provides that a person may not move livestock in a quarantined area unless the person first obtains a permit or a certificate from an authorized inspector. Section 167.032 provides that the commission may restrict movement of commodities that are capable of carrying of carrying ticks.

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

41.6. Restrictions on Movement of Livestock.

(a) Movement from a free area. There are no restrictions on the movement of livestock from a designated free area.

(b) Movement is restricted from leaving a tick eradication quarantine area, temporary preventative quarantine area, or control purpose quarantined area. The owner or caretaker of livestock located in a tick eradication quarantine area, temporary preventative quarantine area, or control purpose quarantine area shall not move, or allow the movement of, any livestock from the area without the livestock having a commission approved permanent official identification device and a permit or certificate for movement issued by an authorized representative of the commission. No person may accept a shipment of livestock from a tick eradication quarantine area, temporary preventative quarantine area, or control purpose quarantine area, unless the livestock are accompanied by an original permit or certificate for movement.

(1) Movement from an infested premise or exposed premise. A certificate for movement will be issued after the livestock, if moving directly to slaughter by sealed conveyance, have had two consecutive dips not less than seven nor more than 14 days apart without scratch inspection

unless required by §41.8 of this title (relating to Dipping of Livestock); or have had two dips not less than seven days nor more than 14 days apart, with each dip following a scratch inspection that does not reveal ticks; or have been dipped through a swim vat following a scratch inspection and not less than 12 days nor more than 14 days after being dipped through a swim vat following a scratch inspection that does not reveal ticks.

(2) Movement from an adjacent premise or check premise. Certificates for movement will be issued after the livestock have been found free from ticks by scratch inspection and then dipped; or have had three dips not less than seven nor more than 14 days apart without scratch inspection unless required under §41.8 of this title or, if moving directly to slaughter by sealed conveyance, have had two dips not less than seven nor more than 14 days apart without scratch inspection unless required under §41.8 of this title if moving directly to slaughter by sealed conveyance.

(c) Movement originating in other states. In addition to other requirements, livestock originating in a fever tick quarantined area must be accompanied by a certificate issued by an authorized representative of the commission showing them to be free of infestation and exposure and that they were dipped under supervision in an approved dipping solution immediately prior to shipment. The livestock must be transported in clean and disinfested trucks, railroad cars, or other vehicles.

41.9. Vacation and Inspection of a Premise.

(a) Vacation of premise. Upon the removal of all livestock from a premise, the premise remains classified as before for the period shown on Table I (Pasture Vacation Schedule, South of Highway 90) or Table II (Pasture Vacation Schedule, North of Highway 90), whichever is applicable. The starting date is the date of the first clean dipping during which 100% of the livestock on the premise have been dipped and continued on an official dipping schedule until removed from the premise. The premise will be reclassified to a Check Premise, as provided by subsection (b) of this section, upon the expiration of the time shown in Tables I (Pasture Vacation Schedule, South of Highway 90) or II (Pasture Vacation Schedule, North of Highway 90), whichever is applicable. The Check Premise restrictions will be released when determined by the commission that the premise has no infestation.

(b) Required inspection of premise. An infested premise, exposed premise, or adjacent premise will be inspected every 14 days by an authorized representative of the commission. The 14-day interval may be extended due to circumstances that prevent the inspection. A check premise will be inspected when deemed necessary by an authorized representative of the commission.

(c) Required scratch inspection of livestock. The owner or caretaker of livestock on any premise must present them to be scratch inspected at any time specified by notice from an authorized representative of the commission.

(d) Free-ranging wildlife and exotic animals that are found on vacated pastures or check premises and which are capable of hosting fever ticks shall be treated by methods approved by the commission ~~Commission~~ and for the length of time specified by the commission ~~Commission~~.

(e) All livestock maintained in the permanent quarantine zone as defined by §§41.14 - 41.22 of this title (relating to Quarantined Areas) ~~chapter~~ shall be gathered and presented annually for inspection in the presence of an authorized representative of the commission ~~Commission~~. All of these animals shall be identified with a permanent and official identification device recognized by the commission ~~Commission~~.

(f) Required identification of livestock. Livestock located on a premise in a control purpose quarantine area, temporary preventative quarantine area or tick eradication quarantine area, as defined by §41.4 of this title (relating to Quarantines), shall be identified with a permanent official identification device approved by the commission. The owner or caretaker of livestock shall identify the livestock on or before the first date of inspection, as required by this section.