

EXPLANATION OF PROPOSED RULE

The Texas Animal Health Commission (TAHC) proposes amendments to Chapter 45 concerning Reportable Diseases. The Texas Agriculture Code, Chapter 161, Section 161.101 requirements provide for the duty of a veterinarian, veterinary diagnostic laboratory or a person having care, custody, or control of an animal to report specified animal health diseases to the TAHC. The Commission has a specific list of diseases reportable in Chapter 45 of the Commission rules. This proposal is for the purpose of adding Bovine Viral Diarrhea (BVD) as a reportable disease.

BVD is an economically impactful disease of cattle with a worldwide prevalence that is endemic in most states. The major reservoir responsible for disease spread geographically is the persistent infection syndrome (BVD-PI) seen in calves. BVD can result in impacts to the stocker and feedlot operations by causing immunosuppression and Bovine Respiratory Disease Complex, or "Shipping Fever". This can lead to reduced feed conversion and weight gain, and increases in days on feed, morbidity, treatment cost, and mortality. In regards to cow-calf operations, all of these impacts may occur plus decreased conception rates, abortions, weak calves, and congenital defects.

The dam can get transiently infected during pregnancy and her calf becomes infected during development in the womb. If this infection occurs between days 40-120 of the pregnancy, the calf's immune system does not recognize the BVD virus (BVDV) as foreign, and no natural immunity is produced in the calf. The calf becomes Persistently Infected (PI), and produces large numbers of the virus. The calf may display a normal appearance with immunosuppression or may result in acute death, poor performance, or mucosal disease.

The Texas Cattle Industry has indicated interest in addressing the disposition of known PI animals. The TAHC convened a group of stakeholders to discuss the negative implications of the disease on the Texas cattle industry. Industry groups represented at the meeting included TSCRA, TCFA, LMA, ICA, TFB, TAD, AgriLife, USDA, and TVMDL. In addition, some interested producers and TAHC commissioners attended.

The Commission can designate that specific animal diseases must be reported in order that the Commission may act as necessary to eradicate or control significant animal diseases. BVDV adversely affects both health and productivity. The losses due to transient infection are diarrhea, decreased milk production, reproductive disorders, increased occurrence of other diseases, and death. The losses from fetal infection include abortions; congenital defects; weak and abnormally small calves; unthrifty, persistently infected (PI) animals; and death among PI animals. In order to provide the cattle some mitigation from the risk of exposure this disease is being added as a reportable disease.

FISCAL NOTE

Mrs. Larissa Schmidt, Chief of Staff, 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 because of enforcing or administering the rules.

REGULATORY ANALYSIS

Public Benefit: Ms. Schmidt has also determined that for each year of the first five years the rules are in effect, the public benefit anticipated because of enforcing the rules will allow the agency to quickly respond to reports of animals having tested positive for BV and reduce the risk of exposure to other cattle in the state.

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.

Major Environmental Rule: The Commission has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

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.

Economic Impact Statement: The Commission has determined that the animal agricultural industries meet the statutory definition of a small or microbusiness (Government Code, Chapter 2006), and that the proposed rule would affect rural communities (as defined by Government Code, Chapter 2006); however, the Commission also has determined that the rule as proposed will not result in adverse economic impacts to small and microbusinesses or rural communities because the rule is just a reporting requirement and applies to all cattle tested for the disease.

Regulatory Flexibility Analysis: The proposed rule does not have an adverse impact on affected small businesses and/or rural communities located in Texas because the rule provides that the agency is notified of positive animals and thereby protects other similarly situated cattle from consequential disease exposure.

Government Growth Impact Statement: In compliance with the requirements of Government Code, §2001.0221, the Commission has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will: (1) neither create nor eliminate a government program; (2) not result in an increase or decrease in the number of full-time equivalent employee needs; (3) not result in a need for additional General Revenue funding; (4) not affect the amount of any fee; (5) it modifies a pre-existing reporting requirement used by the agency to prevent disease exposure; (6) it does not expand an existing regulation; (7) it may increase the number of individuals subject to regulation; and (8) it will not adversely affect the

state's economy.

Rule Reduction Statement The commission has determined that the rule as proposed follows the legislative requirement that the commission shall protect all cattle within the state from regulatory diseases. It does not impose a direct cost on regulated persons within the state but rather provides a reporting requirement for positive cattle, and therefore it is not necessary to repeal or amend any other existing rule.

REQUEST FOR COMMENT

Comments regarding the proposed amendments may be submitted to Amanda Bernhard, Texas Animal Health Commission, 2105 Kramer Lane, Austin, Texas 78758, by fax at (512) 719-0719 or by e-mail at comments@tahc.texas.gov.

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, through §161.041(b), to act to eradicate or control any disease or agent of transmission for any disease that affects livestock.

Pursuant to §161.054, and entitled "Regulation of Movement of Animals", "[t]he 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 §161.048, and entitled, "Inspection of Shipment of Animals or Animal Products", "[t]he 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 §161.005, and 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 §161.044, entitled "Regulation of Livestock Movement from Stockyards or Railway Shipping Pens", "[t]he commission may regulate the movement of livestock out of stockyards or railway shipping pens and require treatment or certification of those animals as reasonably necessary to protect against communicable diseases".

Pursuant to §161.046, entitled “Rules” “[t]he commission may adopt rules as necessary for the administration and enforcement of this chapter.”

Pursuant to §161.049, entitled “Dealer Records”, “[t]he commission may require a livestock, exotic livestock, domestic fowl, or exotic fowl dealer to maintain records of all livestock, exotic livestock, domestic fowl, or exotic fowl bought and sold by the dealer.”

Pursuant to §161.061, entitled “Establishment”, “[i]f the commission determines that a disease listed in Section 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”, “[t]he 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 §161.101, entitled “Duty to Report” that a veterinarian, a veterinary diagnostic laboratory, or a person having care, custody, or control of an animal shall report the existence of the specific listed diseases among livestock, exotic livestock, bison, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis of the disease

Pursuant to §161.112, entitled “Rules” the commission shall adopt rules relating to the movement of livestock, exotic livestock, and exotic fowl from livestock markets and shall require tests, immunization, and dipping of those livestock as necessary to protect against the spread of communicable diseases.

Pursuant to §161.113, entitled “Testing or Treatment of Livestock” “[i]f the commission requires testing or vaccination under this subchapter, the testing or vaccination must be performed by an accredited veterinarian or qualified person authorized by the commission. The state may not be required to pay the cost of fees charged for the testing or vaccination. And if the commission requires the dipping of livestock under this subchapter, the livestock shall be submerged in a vat, sprayed, or treated in another sanitary manner prescribed by rule of the commission.

Pursuant to §161.114, entitled “Inspection of Livestock”, “[a]n authorized inspector may examine livestock consigned to and delivered on the premises of a livestock market before the livestock are offered for sale. If the inspector considers it necessary, the inspector may have an animal tested or vaccinated. Any testing or vaccination must occur before the animal is removed from the livestock market”.

<rule>

§45.2. Duty to Report.

(a) A veterinarian, a veterinary diagnostic laboratory or a person having care, custody, or control of an animal, shall report the existence of the following diseases among livestock, exotic livestock, domestic fowl, or exotic fowl to the commission within 24 hours after diagnosis. The following listing includes diseases and conditions that are Office International Des Epizooties Diseases, Foreign Animal Diseases, National Program Diseases or Texas Animal Health Commission Designated Diseases.

Attached Graphic

(b) In addition to reporting the existence of a disease under subsection (a) of this section, the veterinarian shall also report to the commission information relating to:

- (1) the species and number of animals involved;
- (2) any clinical diagnosis or postmortem findings;
- (3) any death losses;
- (4) location; and
- (5) owner.

Figure: 4 TAC §45.2

Multiple species diseases

Akabane - Akabane virus

Anthrax** - *Bacillus anthracis*

Aujeszky's disease - Pseudorabies virus, herpesvirus suis

Leishmaniasis** - *Leishmania infantum* and *L. donovani*

Foot and mouth disease - Aphthovirus, types A,O,C, SAT, Asia

Heartwater - *Cowdria ruminantium*

African Trypanosomosis (Nagana) - *Trypanosoma brucei*, *T. vivax*,

T. brucei

Rinderpest – Morbillivirus

Rift Valley fever - Bunya virus

Vesicular stomatitis - Rhabdovirus; 2 serotypes; New Jersey and Indiana

Screwworm - *Cochliomyia hominivorax*

Schmallenberg virus

Cattle diseases (including Exotic Bovidae)

Bovine babesiosis - *B. bovis*, *B. divergens*, *Babesia microti*

Bovine brucellosis - *Brucella abortus*

Bovine ephemeral fever – Rhabdovirus

Bovine trichomonosis – trichomoniasis****

Bovine tuberculosis - *Mycobacterium bovis*

Bovine Viral Diarrhea (BVD)

East coast fever (Theileriosis) - *Theileria parva*

Malignant catarrhal fever (wildebeest associated) - Alcelaphine herpesvirus (AHV 1)

Contagious bovine pleuropneumonia - *Mycoplasma mycoides*

Lumpy skin disease - Neethling poxvirus

Bovine spongiform encephalopathy

Scabies - *Sarcoptes scabiei*, *Psoroptes bovis*, *Chorioptes bovis*

Cervidae

Brucellosis - *Brucella abortus*, *Brucella suis* (biotype 4)

Chronic Wasting Disease

Tuberculosis - *Mycobacterium bovis*

Sheep and goat diseases

Caprine and ovine brucellosis (not *B. ovis* infection) – *Brucella melitensis*

Contagious caprine pleuropneumonia - *Mycoplasma capri* (biotype 78)

Louping ill – Flavivirus

Nairobi sheep disease – Bunyaviridae

Peste des petits ruminants - Morbillivirus, Paramyxoviridae family

Sheep pox and goat pox – Capripoxvirus

Scrapie

Scabies - *Sarcoptes scabiei*

Equine diseases

African horse sickness – Orbivirus

Contagious equine metritis - *Tayorella equigenitalis*

Dourine - Trypanosoma equiperdum

Epizootic lymphangitis - Histoplasma farciminosum

Equine encephalomyelitis (Eastern and Western)** - Alphavirus

Equine infectious anemia – Lentivirus

Equine morbillivirus pneumonia - Morbillivirus

Equine piroplasmiasis - Babesia equi, B. caballi

Glanders - Pseudomonas mallei

Japanese encephalitis - Flavivirus

Surra - Trypanosoma evansi

Venezuelan equine encephalomyelitis** - Alphavirus; Togaviridae family

Equine Viral Arteritis (EVA)***

Equine Herpes Virus-1 (EHV-1)

Swine diseases

African swine fever – Poxvirus

Classical swine fever (hog cholera) - Togovirus

Pseudorabies - Herpesvirus suis

Porcine brucellosis - Brucella suis

Swine vesicular disease - Picornavirus

Vesicular Exanthema – Calicivirus

Poultry diseases

Avian influenza – Orthomyxoviruse

Avian infectious laryngotracheitis - Orthomyxovirus, herpesvirus

Avian tuberculosis - Mycobacterium avium serovars 1,2

Duck virus hepatitis - Picornavirus

Fowl typhoid - Salmonella gallinarum

Highly pathogenic avian influenza (fowl plague) – Orthomyxovirus (type H5 or H7)

Infectious encephalomyelitis - Arbovirus

Ornithosis (psitticosis) - Chlamydia psittaci

Pullorum disease - Salmonella pullorum

Newcastle disease (VVND) - Paramyxovirus-1 (PMV-1)

Paramyxovirus infections (other than Newcastle disease) - PMV-2 to PMV-9

Rabbit diseases

Myxomatosis - Myxomatosis virus

Viral haemorrhagic disease of rabbits - Calciviral disease

**These diseases are also reportable to the Department of State Health Services (DSHS)

***This disease has reporting standards in Chapter 49, §49.4 of this title.

****Results of tests for this disease shall be reported within 48 hours of completion of the tests.