

## EXPLANATION OF PROPOSED RULE

The Texas Animal Health Commission (Commission) proposes amendments to Chapter 51, entitled "Entry Requirements." The amendment is for Section 51.13. The purpose of these amendments is to incorporate forms of electronic identification as official identification for equine moving on an equine passport.

The Commission is participating with a consortium of other state animal health regulatory agencies for fulfilling the objectives and provisions for the interstate movement of equine using an Extended Equine Certificate of Veterinary Inspection (EECVI). The consortium have established a framework in each participating state to enhance the coordination and cooperation regarding the allowance and documentation of interstate movement of equine. This amendment provides that for an official equine passport the official identification includes a microchip.

## 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 be removing a requirement to enter Texas.

**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 it is for animals entering the state and not from Texas..

**Regulatory Flexibility Assessment:** The proposed rule does not have an adverse impact on affected small businesses and/or rural communities located in Texas because the rule recognizes pragmatic official identification options for a horse owner.

**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 regulation; (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 livestock, exotic livestock, domestic fowl, and exotic fowl within the state from regulatory diseases. It does not impose a direct cost on regulated persons within the state but rather provides the individuals regulatory options, 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](mailto: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", "[t]he 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 §161.112, entitled "Rules" "[t]he 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>

#### RULE §51.13 Equine

(a) Equine infectious anemia (EIA) requirements. All horses, mules, asses, ponies, zebras and all other equidae shall have a certificate of veterinary inspection and proof of a negative EIA test within the previous 12 months prior to entering Texas, along with unique and permanent forms of identification, such as electronic identification that complies with ISO 11784/11785; or non-ISO electronic identification injected in the equine on or before March 11, 2014; or digital photographs sufficient to identify the individual equine. The negative test results together with the name of the laboratory conducting the test must be shown on the certificate of veterinary inspection. Alternatively, a completed VS Form 10-11 (Equine Infectious Anemia Laboratory Test) may be attached to the certificate of veterinary inspection. Only test results from USDA-approved laboratories are acceptable. Exceptions to these test requirements are:

- (1) equidae consigned directly to an approved slaughtering establishment accompanied by a prior permit issued by the Texas Animal Health Commission;
- (2) equidae that have been "S" branded and consigned directly to an approved slaughter establishment accompanied by a VS 1-27 permit;
- (3) equidae 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;
- (4) equidae may enter Texas for shows, fairs, exhibitions or assembly purposes 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.
- (5) equidae entering for consignment to a livestock market, may first move directly to an EIA approved lab/vet clinic for testing. The animal must be accompanied by a prior entry permit

issued by the Texas Animal Health Commission.

(6) foals, under eight months of age, accompanying and nursing a dam with a negative test within the last twelve months.

(b) Fever tick requirements: Equidae originating in a fever tick infected area must be accompanied by a certificate issued by an authorized state or federal inspector showing them free of fever tick infestation or exposure thereto and dipped in a recognized dipping solution. Dipping must be under the supervision of a state or federal inspector immediately prior to shipment, and the equidae must be transported in clean and disinfected trucks, railroad cars, or other vehicles.

(c) Equine Viral Arteritis (EVA):

(1) Owners, shippers or exporters of EVA carrier stallions, as defined in §49.4 of this title (relating to Equine Viral Arteritis (EVA): Reporting and Handling for Breeding of Infected Equine), which are to be imported into Texas, shall notify the buyer or receiver of the stallion, in writing, prior to shipment into the state, that the stallion is an EVA carrier stallion. The equine shall be accompanied by a certificate veterinary inspection , on which the carrier status of the stallion is notated.

(2) Owners of EVA carrier stallions, who intend to ship semen from the carrier stallion into Texas, shall notify, in writing, the owners, managers or caretakers of mares to be inseminated that the semen is from an EVA carrier stallion and that the mare could become EVA infected through insemination with infective semen.

(3) Any equine that originate from an area quarantined, excluding a quarantined facility, for EVA, must be accompanied by a certificate of veterinary inspection which states that the animal does not exhibit clinical signs of EVA, and that the equine had a rectal temperature of 101° F. or less at the time of examination for entry. EVA carrier stallions shall also comply with paragraph (1) of this subsection.