The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 57 titled Poultry. Specifically, the Commission proposes amendments to §57.10, regarding Definitions and §57.11, regarding General Requirements.

BACKGROUND AND PURPOSE

The Texas Animal Health Commission proposes amendments to §57.10, concerning Definitions and to §57.11, concerning General Requirements. The amendments establish movement requirements for Texas-origin exhibition poultry traveling to and from out-of-state events.

The proposed amendments require exhibition birds to leave Texas on a certificate of veterinary inspection (CVI) with proof of negative pullorum-typhoid test (PT) and negative avian influenza test (AI) all issued within 30 days prior to movement. For poultry originating from an NPIP certified flock with current PT Clean status, valid NPIP documentation can be substituted for PT test results. If exhibitors have complied with the CVI and testing requirements, the proposed amendments allows the birds to return to Texas on the same CVI within its 30-day validity period provided the birds were not exhibited in an Highly Pathogenic Avian Influenza (HPAI)-Impacted state, show no signs of illness, and a quarantine was not established during the event.

Additionally, the proposed amendments establish a 1-year recordkeeping requirement for exhibitors. The amendments outline that if HPAI was detected in the event state after the birds entered the state, the exhibitor must return the birds to the premises of origin at the earliest opportunity, notify the Commission, and isolate the birds for 14 days. The proposed rule specifically states these movement requirements do not allow for birds to reenter Texas if they have travelled to a state that was already designated an HPAI-Impacted state at time of movement.

Finally, the proposed amendments add definitions for “exhibition poultry,” “HPAI-Impacted state,” and “National Poultry Improvement Plan (NPIP)” to lend clarity to the proposed changes to §57.11.

The purpose of these amendments is to provide a method for Texas exhibitors to travel to events out-of-state and safely return while minimizing disease-risk to other Texas poultry. The amendments focus on immediate reporting, traceability, and disease surveillance through required testing prior to movement. The proposed requirements mirror the requirements for birds entering Texas, but allow Texas exhibitors to meet the requirements prior to leaving the state.

SECTION-BY-SECTION DISCUSSION

Section 57.10 includes definitions. The proposed amendments add definitions for "exhibition poultry," "HPAI-Impacted state," and "National Poultry Improvement Plan (NPIP)." The proposed amendments also reorder number existing definitions.

Section 57.11 includes general requirements for poultry. The proposed amendments add movement requirements for Texas exhibition poultry traveling to an out-of-state event and returning to Texas.

FISCAL NOTE

Ms. Jeanine Coggeshall, General Counsel for the Texas Animal Health Commission, determined that for each year of the first five years that the amendment is in effect, enforcing or administering the proposed rules does not have foreseeable implications relating to costs or revenues of state or local governments. Commission employees will administer and enforce these rules as part of their current job duties and resources. Ms. Coggeshall also determined for the same period that there is no estimated increase or loss in revenue to the state or local government as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT NOTE

Ms. Coggeshall determined that for each year of the first five years the amendment is in effect, the anticipated public benefits are safer movement of exhibition poultry to and from out-of-state events, increased traceability and disease surveillance, and

less confusion for poultry exhibitors surrounding Commission rules for interstate travel.

TAKINGS IMPACT ASSESSMENT

The Commission determined that the proposal does not restrict, limit, or impose a burden on an owner's rights to his or her private real property that would otherwise exist in the absence of government action. Therefore, the proposed rules are compliant with the Private Real Property Preservation Act in Texas Government Code §2007.043 and do not constitute a taking.

LOCAL EMPLOYMENT IMPACT STATEMENT

The Commission determined that the proposed rules would not impact local economies and, therefore, did not file a request for a local employment impact statement with the Texas Workforce Commission pursuant to Texas Government Code §2001.022.

REGULATORY ANALYSIS OF MAJOR ENVIRONMENTAL RULES

The Commission determined that this proposal is not a "major environmental rule" as defined by Government Code §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

GOVERNMENT GROWTH IMPACT STATEMENT

In compliance with the requirements of Texas Government Code §2001.0221, the Commission prepared the following Government Growth Impact Statement. The

Commission determined for each year of the first five years the proposed rules would be in effect, the proposed rules:

Will not create or eliminate a government program;
Will not require the creation or elimination of employee positions;
Will result in no assumed change in future legislative appropriations;
Will not affect fees paid to the Commission;
Will not create new regulation;
Will create a regulatory exception to entry permits, thus limiting existing regulation;
Will not change the number of individuals subject to the rule; and
Will not affect the state's economy.

SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Coggeshall also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities pursuant to Texas Government Code, Chapter 2006. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

COSTS TO REGULATED PERSONS

The proposed amendments to Chapter 57 do not impose additional costs on regulated persons and are designed to better facilitate safe and compliant movement of exhibition poultry. The proposed rules do not otherwise impose a direct cost on a regulated person, state agency, a special district, or a local government within the state.

PUBLIC COMMENT

Written 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 to comments@tahc.texas.gov. To be considered, comments must be received no later than thirty (30) days from the

date of publication of this proposal in the *Texas Register*. When faxing or emailing comments, please indicate “Comments on Proposed Rule-Chapter 57, Entry Requirements” in the subject line.

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 §161.006, entitled “Documents to Accompany Shipment”, if required that a certificate or permit accompany animals or commodities moved in this state, the document must be in the possession of the person in charge of the animals or commodities, if the movement is made by any other means.

Pursuant to §161.041, titled "Disease Control," the Commission shall protect all livestock, exotic livestock, domestic fowl, and exotic fowl from diseases the commission determines require control or eradication. Pursuant to §161.041(b) the Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic fowl, or exotic fowl. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

Pursuant to §161.043, titled "Regulation of Exhibitions," the Commission may regulate the entry of livestock and may require certification of those animals as reasonably necessary to protect against communicable diseases.

Pursuant to §161.046, entitled “Rules”, the Commission may adopt rules as necessary for the administration and enforcement of this chapter.

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, titled "Regulation of Movement of Animals; Exception", 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. The Commission is authorized, through §161.054(b), to prohibit or regulate the movement of animals into a quarantined herd, premises, or area. The executive director of the Commission is authorized, through §161.054(d), to modify a restriction on animal movement, and may consider economic hardship.

Pursuant to §161.113, entitled “Testing or Treatment of Livestock”, if 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. The Commission may require the owner or operator of a livestock market to furnish adequate equipment or facilities or have access to essential equipment or facilities within the immediate vicinity of the livestock market.

Pursuant to §161.081, titled "Importation of Animals," the Commission by rule may provide the method for inspecting and testing animals before and after entry into Texas. The Commission may create rules for the issuance and form of health certificates and entry permits.

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

<rule>

§57.10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) – (6) (No change.)

(7) Exhibition poultry--domesticated fowl, including chickens, turkeys, waterfowl, and game birds, kept for exhibition, competition, or show purposes, and not for commercial production.

(8) [~~(7)~~] Hatching eggs--Poultry eggs for hatching purposes including embryonated eggs.

(9) HPAI-Impacted state--any state or area within a state under official quarantine, control, or surveillance for Highly Pathogenic Avian Influenza (HPAI), as designated by the United State Department of Agriculture (USDA) or the commission.

(10) National Poultry Improvement Plan (NPIP)--A voluntary federal-state cooperative testing and certification program for poultry designed to improve poultry health and prevent the spread of certain diseases including Pullorum-Typhoid (PT) and Avian Influenza (AI).

(11) [~~(8)~~] Permit--A written authorization for movement issued by the commission.

(12) [~~(9)~~] Person--A partnership, firm, corporation, association, or individual.

(13) [~~(10)~~] Poultry--Chickens, turkeys, game birds of all ages, and other domestic fowl, except baby poultry as defined in this section.

(14) [~~(11)~~] Reportable poultry disease--

(A) – (B) (No change.)

(15) [~~(12)~~] Vaccine--A suspension of attenuated or killed micro-organisms administered for the prevention or treatment of an infectious poultry disease and approved for use by USDA and the commission. The following is a list of approved vaccines:

(A) – (O) (No change.)

§57.11. General Requirements.

(a) (No change.)

(b) Exhibition Poultry. [~~Public exhibitions. Poultry entered in public exhibition shall originate from flocks or hatcheries free of pullorum disease and fowl typhoid or have a negative pullorum-typhoid test within 30 days before exhibition. Chickens or turkeys entered in public exhibition shall be accompanied by a certificate of source.~~]

(1) Public exhibitions. Poultry entered in public exhibition shall originate from flocks or hatcheries free of pullorum disease and fowl typhoid or have a negative pullorum-typhoid (PT) test within 30 days before exhibition. Chickens or turkeys entered in public exhibition shall be accompanied by a certificate of source.

(2) Movement of Texas Exhibition Poultry to and from Out-of-State Events.

(A)To facilitate the safe and lawful movement and return of exhibition poultry from Texas to out-of-state events, all exhibition poultry leaving Texas for exhibition in another state must be accompanied by:

(i) A certificate of veterinary inspection (CVI) that clearly identifies the destination exhibition issued within 30 days prior to movement;

(ii) Proof of negative PT test results conducted within the 30 days immediately preceding movement, or for poultry originating from an NPIP certified flock with current PT Clean status valid NPIP documentation may be substituted for PT test results; and

(iii) Proof of negative avian influenza (AI) test results conducted within the 30 days immediately preceding movement.

(B) Upon return to Texas, exhibition poultry that left Texas in compliance with subsection (b) of this section may return to their premises of origin on the same CVI within its 30-day validity period, if:

(i) Poultry was not exhibited at an event located within an HPAI-Impacted state at the time of the event;

(ii) Poultry did not exhibit signs of illness during or after the exhibition; and

(iii) No official quarantine or control zone was established at the event premises during the period of exhibition.

(iv) Entry permit requirements under §51.3 of this title are waived for movements conducted in compliance with this section.

(C) The exhibitor must retain a copy of the CVI and associated test results or NPIP documentation for at least one year and must present such documentation to the commission upon request.

(D) If HPAI is detected in a state or exhibition facility after birds have entered, the owner or exhibitor must:

(i) Return poultry directly to the premises of origin at the earliest opportunity;

(ii) Immediately notify the commission of the movement; and

(ii) Isolate the returning poultry from other flocks for a minimum of 14 days and report any illness or mortality during that time.

(E) This section does not allow for the reentry of exhibition poultry transported to a state already designated HPAI-Impacted at time of movement.

(c) – (h) (No change.)