

# TEXAS ANIMAL HEALTH COMMISSION

“SERVING TEXAS SINCE 1893”

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## MEMORANDUM

**FROM:** Dr. Max Coats, D.V.M.

**DATE:** September 23, 2003

**RE:** Discussion Document on a Regulatory Framework for a Registration Program for Domestic and Exotic Fowl

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The purpose of this document is to provide a general framework to be used in the development of Poultry Registration Program rules. This document will provide interested parties with a better understanding of the elements being considered for the registration program. This document will, hopefully, help focus discussion and obtain input on relevant issues. Over the next couple TAHC months staff will then take input from interested parties and develop the actual registration requirements for this program. Commission Staff would like bring a proposal to the Commission meeting for consideration at their December 3, 2003 meeting. Following Commission acceptance of the proposal there will be a thirty day period for additional public comment. Comments received will be considered and a final rule will be proposed for final adoption by the Commission within no more than six months of the initial proposal.

The Commission appreciates any comments on issues addressed in this document for consideration during drafting of the rule. They may be submitted to Gene Snelson, P.O. Box 12966, Austin, Texas 78711-2966. or [gnelson@tahc.state.tx.us](mailto:gnelson@tahc.state.tx.us). Please have any comments submitted by October 10, 2003

**Purpose:** The primary purpose of the program is to protect from a disease risk the various types of fowl being sold or transported throughout this state. There are certain avian disease risks which could devastate the various Texas fowl industries. This program will be protective through two different methods. People that qualify for an exemption, by participating in a disease surveillance program recognized by the Commission, will be ensuring that their flock has a positive and protected health status. For people that register, the program will provide some basic disease prevention standards. Participation in the program will allow us to do a better job regarding education and surveillance about the disease risk as well as allow us to quickly identify, respond to, control, and eradicate significant avian disease.

**Reason:** With increasing consolidation in the farm and ranch industry, large numbers of animals are kept and sold in close quarters, creating a situation in which animal diseases can spread more quickly. Besides jeopardizing the commercial poultry industry, contagious diseases can also pose a threat to the caged-bird industry and poultry hobbyists. An outbreak of certain avian diseases may prohibit the movement and marketing of all fowl from affected areas or from the state as a whole and could have an enormous negative economic impact on the various fowl industries.

**Application:** The program will require “registration of any person who sells / transports / distributes any fowl to an area where poultry are concentrated”. The initial focus of the registration program is on poultry as the highest risk for disease exposure. Texas poultry are vulnerable to at least two fast-spreading diseases: Exotic Newcastle disease (END) and Avian Influenza (AI). Both High Path AI and END are considered to be “foreign animal diseases,” which means they are not native to the United States. END is a high-pathogenic disease, meaning it causes high mortality. AI has both a low-pathogenic and a high-pathogenic strain. Both diseases can be carried by almost any fowl even if they do not show symptoms or are actually infected. Commission staff plans to develop program elements which are based on disease risk. The current framework for the program is intended to be flexible in establishing different requirements for “high risk” and “low risk” as well as for the different types of fowl activities that take place in this state.

### **Program Elements:**

**Registration:** Registration will allow the Commission to know who is providing this type of service and be able to provide better disease surveillance coupled with some basic requirements focused on disease prevention.

**Dealer Record Keeping:** A primary part of this program will be dealer records regarding fowl bought and sold. This is one of the most valuable tools utilized by the Commission in all of their disease surveillance programs. It is an extremely valuable tool for being able to quickly respond to a significant avian disease exposure by tracing fowl from buyers and sellers and thereby provide quick and effective response to control disease transmission and eradicate it. The Commission currently has general record keeping requirements for fowl dealers which will be applicable to most sellers. That provision is located in Volume 4, Texas Administrative Code Chapter 57, Section 57.3. The basic requirement under that Section would be replicated for the Registration Program. It requires dealers to maintain records which show the buyer's and seller's name and address, county of origin, number of animals, and a description, including sex, age, color, breed, and any individual identification that is already on the fowl.

**Identification:** The Commission is not currently contemplating a requirement for individual identification because it is not a widely utilized industry standard and such a requirement would be unduly burdensome. Rather, the Commission will utilize the dealer record-keeping requirement for tracing the fowl that are bought and sold.

**Sanitation:** Commission staff is currently evaluating appropriate sanitation standards for registrants. These standards would be based on disease prevention and not related to welfare issues. The standards would be varied to take in to account the different types of venues or establishments where fowl are sold or distributed. The Commission believes that the standard would only be required for high risk situations and only serve as recommendations for lower risk registrants.

**Testing:** Currently it is not foreseen that testing will be required as part of the registration program. However specific test requirements may be required for high risk situations.

Transportation: This registration program will focus only on people who provide transportation of fowl as a business and not on cases where a producer is moving their own fowl to another location as part of their normal business practice. .

Exemption: The Commission may exempt from registration a person participating in a disease surveillance program recognized by the Commission. Currently the Commission is considering various disease programs that might qualify for an exception. An example on a National level is USDA's "National Poultry Improvement Plan and Auxiliary Provisions" with a U.S. Avian Influenza Clean component. However, the Commission realizes that there exists a number of industry or model standards that may also be acceptable. The Commission will consider any existing programs that are being followed by the various fowl industries in order to determine if they provide the necessary safeguards to be recognized as an acceptable disease surveillance program.

Fee: Statute authorizes TAHC to set fees under this section in amounts that do not exceed the amounts necessary to enable TAHC to recover the costs of administering this section. Currently the Commission is considering a graduated fee structure for registrants depending on flock size with the intent to keep the fee as low as possible so as to not negatively impact the various registrant groups.

Definitions: These are current definitions from our statutory authority in Chapters 161 and 168 of the Texas Agriculture Code. The Commission will develop further definitions as the rules are developed in order to provide clear guidance to everyone. .

"Poultry" means domestic fowl, including chickens, turkeys, and game birds.

"Animal" includes livestock, exotic livestock, domestic fowl, and exotic fowl.

"Exotic fowl" means any avian species that is not indigenous to this state. The term includes ratites.

"Livestock market" means a stockyard, sales pavilion, or sales ring where livestock, exotic livestock, or exotic fowl are assembled or concentrated at regular or irregular intervals for sale, trade, barter, or exchange.

## FREQUENTLY ASKED QUESTIONS:

### *(1) Why is this legislation necessary?*

A new federal program to control and eradicate Low Pathogenic Avian Influenza is anticipated prior to next session. The expected program would encompass both commercial and live bird marketing systems. Participation is expected to provide access to federal indemnity for birds and other losses associated with control/eradication activities.

Part of the recommendation being considered by USDA would place requirements on poultry producers, auctions, dealers, wholesalers, haulers and live bird markets. This legislation will provide the Texas Animal Health Commission (TAHC) the necessary authority to regulate these activities to the extent necessary to participate in the expected federal program.

### *(2) Why are the current statutes not adequate?*

This change is believed desirable to provide clarity and focus. The expected program would require those producers that provide birds to live bird markets to participate in a disease monitoring program.

Mandatory producer registration with the state and use of premise identification are included in the current recommendation to USDA.

In addition, producers, actions, dealers, wholesalers and poultry haulers would be required to be registered by the state.

### *(3) What do you expect the principle focus of TAHC's activity or regulation to be under this Bill?*

Principle action will be focused on parties and practices by producers, dealers, wholesalers, haulers, auctions and live bird markets dealing with poultry.

### *(4) There have been some concerns and questions raised related to action as a result of this legislation that would negatively impact the exotic fowl industry. How would you respond to these concerns?*

As mentioned, I anticipate the principle impact to be on the domestic fowl industry, however, because many avian diseases of significance can infect both domestic and exotic fowl, those nodes of activity where these segments come together may be impacted by new regulations. As you know, TAHC is charged under current statutes with broad general responsibility and authority to eradicate or control diseases or agents of transmission of diseases affecting livestock, exotic livestock, domestic fowl or exotic fowl. These actions are based on regulations made by the Commission and this assures opportunity for input to that process by the public.

### *(5) Do you expect there to be new requirements, for example on feed stores that sell baby poultry?*

If the retailer handles only baby poultry from NPIP Hatcheries, I would not expect any new requirements, however, if they also buy/sell/trade other classes of poultry, some new rules may develop.

### *(6) How about pet shops?*

I would not expect pet stores to be negatively impacted as a result of this Bill if they only handle pet birds.

*(7) How about individual pet owners?*

The legislation is not intended to impact individual pet owners for the purpose of registration. This legislation is focused on addressing issues where dealers or sellers co-mingle pet birds with poultry.

*(8) Do you expect to have new regulations that impact shows/fairs/exhibitions as a result of this legislation?*

No. The Commission has had long standing entry requirements intended to be protective of fowl gathering together for the purpose of showing them and as such the entry requirements are not expected to change in response to a registration program.

*(9) What about the recent intentions of USDA to include birds in their Animal Welfare Registration program?*

USDA through their Animal Care program establishes standards of humane animal care and treatment and to monitor and achieve compliance with the Animal Welfare Act through inspections, education, and cooperative efforts. This legislation is not intended to address animal care but rather focused on disease prevention among fowl.

*(10) How will someone who maintains a private poultry flock be affected by this program?*

This program is not focused on people who have poultry flocks but rather on people who are in the business of selling them. If a person is raising poultry and only is engaged in limited private treaty sales of poultry then this program would not apply.

## **CHAPTER 161 TEXAS AGRICULTURE CODE**

### **§ 161.001. Definitions**

In this chapter:

- (1) "Animal" includes livestock, exotic livestock, domestic fowl, and exotic fowl.
- (5) "Exotic fowl" means any avian species that is not indigenous to this state. The term includes ratites.

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### **§ 168.001. Definitions**

In this chapter:

- (1) "Commission" means the Texas Animal Health Commission.
- (2) "Laboratory" means the Texas Veterinary Medical Diagnostic Laboratory.
- (3) "Flock" means poultry and eggs produced by poultry.
- (4) "Hatchery" means an enterprise that operates equipment for the hatching of eggs.
- (5) "Poultry" means domestic fowl, including chickens, turkeys, and game birds.

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### **§ 161.041. Disease Control**

(a) The Commission shall protect all livestock, domestic animals, and domestic fowl from the following:

- (1) tuberculosis;
- (2) anthrax;
- (3) glanders;
- (4) infectious abortion;
- (5) hemorrhagic septicemia;
- (6) hog cholera;
- (7) Malta fever;
- (8) foot-and-mouth disease;
- (9) rabies among animals other than canines;
- (10) bacillary white diarrhea among fowl;
- (11) equine infectious anemia; and

(12) other diseases recognized as communicable by the veterinary profession.

(b) The Commission may act to eradicate or control any disease or agent of transmission for any disease that affects livestock, exotic livestock, domestic animals, domestic fowl, exotic fowl, or canines regardless of whether the disease is communicable. The Commission may adopt any rules necessary to carry out the purposes of this subsection, including rules concerning testing, movement, inspection, and treatment.

(c) A person commits an offense if the person knowingly fails to handle, in accordance with rules adopted by the Commission, an animal infected with a disease listed in Subsection (a) of this section.

#### **§ 161.043. Regulation of Exhibitions**

The Commission may regulate the entry of livestock, domestic animals, and domestic fowl into exhibitions, shows, and fairs and may require treatment or certification of those animals as reasonably necessary to protect against communicable diseases.

#### **§ 161.048. Inspection of Shipment of Animals or Animal Products**

(a) 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:

(1) determine if the shipment is in compliance with the laws and rules administered by the Commission affecting the shipment;

(2) determine if the shipment originated from a quarantined area or herd; or

(3) determine if the shipment presents a danger to the public health or livestock industry through insect infestation or through a communicable or noncommunicable disease.

(b) The Commission may detain a shipment of animals or animal products that is being transported in violation of law or a rule of the Commission. The Commission may require that the shipment be unloaded at the nearest available loading facility.

(c) The Commission may not inspect a railroad train at any point other than a terminal.

(d) The Commission may post signs on public highways and use signaling devices, including red lights, in conjunction with signs, if necessary to effectively signal and stop vehicles for inspection.

(e) In this section, "animal product" includes hides; bones; hoofs; horns; viscera; parts of animal bodies; litter, straw, or hay used for bedding; and any other substance capable of carrying insects or a disease that may endanger the livestock industry.

#### **§ 161.049. Dealer Records**

(a) In this section, "dealer" means a person engaged in the business of buying or selling animals in commerce:

(1) on the person's own account;

(2) as an employee or agent of the vendor, the purchaser, or both; or

(3) on a Commission basis.

(b) A "dealer" as defined by Subsection (a) of this section does not include a person who buys or sells animals as part of the person's bona fide breeding, feeding, dairy, or stocker operations but does include livestock markets and Commission merchants.

(c) The 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.

(d) The Commission may inspect and copy the records of a livestock, exotic livestock, domestic fowl, or exotic fowl dealer that relate to the buying and selling of those animals.

(e) The Commission by rule shall adopt the form and content of the records maintained by a dealer under Subsection (c) of this section.

#### **§ 161.054. Regulation of Movement of Animals; Exception**

(a) 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.

(b) The Commission by rule may prohibit or regulate the movement of animals into a quarantined herd, premise, or area.

(c) The Commission may not adopt a rule that prohibits a person from moving animals owned by that person within unquarantined contiguous lands owned or controlled by that person.

(d) On application of the owner of an animal, a restriction on the movement of the animal imposed under this chapter may be modified by order of the executive director of the Commission if the owner demonstrates that the restriction will result in unusual hardship for the owner. In considering an application under this section, the executive director may consider the effect of prolonged drought, inadequacy of pasturage or unusual feed supply resulting from disaster or other unforeseeable circumstances, or economic hardship.

#### **§ 161.056. Identification of Exotic Animals**

The Commission may adopt rules to establish a standard method for identifying and tracking exotic livestock and exotic fowl.

#### **§ 161.081. Importation of Animals**

(a) 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.

(b) The Commission by rule may provide the method for inspecting and testing animals before and after entry into this state.

(c) The Commission by rule may provide for the issuance and form of health certificates and entry permits. The rules may include standards for determining which veterinarians of this state,

other states, and departments of the federal government are authorized to issue the certificates or permits.

(d) The Commission shall charge a fee of 25 cents for each health certificate.

**§ 161.111. Definition**

In this subchapter, "livestock market" means a stockyard, sales pavilion, or sales ring where livestock, exotic livestock, or exotic fowl are assembled or concentrated at regular or irregular intervals for sale, trade, barter, or exchange.