

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 4. AGRICULTURE

### PART 2. TEXAS ANIMAL HEALTH COMMISSION

#### CHAPTER 41. FEVER TICKS

##### 4 TAC §41.8

The Texas Animal Health Commission (Commission) proposes amendments to Title 4, Texas Administrative Code, Chapter 41 titled "Fever Ticks." Specifically, the Commission proposes amendments to §41.8 regarding Dipping, Treatment, and Vaccination of Animals.

##### BACKGROUND AND PURPOSE

Cattle Fever Ticks are a significant threat to the United States cattle industry. These ticks are capable of carrying the protozoa, or microscopic parasites, *Babesia bovis* or *B. bigemina*, commonly known as cattle fever. This disease caused enormous economic losses to the U.S. cattle industry in the late 1800s and early 1900s. Since that time, the Commission works to protect the state and nation from the pest and its repercussions.

Section 41.8 establishes guidelines for various treatment methods for fever ticks. These treatments include scheduled dipping, injectable doramectin, vacating premises, and approved acaricides. The proposed amendments to §41.8 update the doramectin administration schedule from 25-28 days to 21-28 days. The proposed amendments also change the extended withdrawal period from 35 days to a period determined by TAHC and USDA APHIS. These changes follow current recommendations from the Food Animal Residue Avoidance Databank (FARAD) and are made in collaboration with the USDA's Cattle Fever Tick Eradication Program.

##### SECTION-BY-SECTION DISCUSSION

Section 41.8 includes guidelines for administering doramectin. The proposed amendments update the frequency of administration and updates the required withdrawal period.

##### 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 rule 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 rule is in effect, the anticipated public benefits are updated guidelines to administer doramectin that align with current science and guidance from FARAD.

##### 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 not expand existing regulations;
- 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. Coggshall 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 41 do not impose additional costs on regulated persons and are designed to update the guidelines for administering doramectin to align with current science and guidance from the Food Animal Residue Avoidance Databank. 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](mailto: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 41, Fever Ticks" in the subject line.

## STATUTORY AUTHORITY

The amendments are proposed under the Texas Agriculture Code, Chapter 161, §161.046 which authorizes the Commission to promulgate rules in accordance with 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 §161.057, 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, the Commission shall establish a quarantine on the affected animals or on the affected place.

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 rule.

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.

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

### *§41.8. Dipping, Treatment, and Vaccination of Animals.*

Unless otherwise determined by the DFTE and approved by the executive director [~~Executive Director~~], the following requirements shall apply:

- (1) (No change.)
- (2) Requirements for Dipping, Treatment, or Vaccination:
  - (A) Dipping Requirements:
    - (i) The owner or caretaker of livestock on infested or exposed premises must present the livestock to be scratch inspected

and dipped with subsequent dipping every seven to 14 days until the livestock are moved from the premises in accordance with these regulations, except as provided in subsection (1)(C) of this section.

(ii) The 14-day interval may be extended due to circumstances beyond the control of the owner upon approval by an authorized representative of the commission. In no event will the extension be more than three days. If the extension is granted, no certificate for movement will be issued after the 14th day, and the next dip must be on the original 14-day schedule.

(iii) The scratch inspection and first dip must be within 14 days from the date infestation or exposure is discovered unless otherwise approved by the commission.

(iv) A dip is not official unless 100% of the livestock within the premises affected are dipped on schedule.

(v) The commission will authorize for use in dipping only those dips that have been approved by the Animal and Plant Health Inspection Service of the United States Department of Agriculture and the commission for use in official dipping to rid animals of the tick.

(vi) The concentration of the dipping chemical used must be maintained in the percentage specified for official use by means of the approved vat management techniques established for the use of the agent; or, if applicable, by an officially approved vat side test or field test of the commission.

(vii) If the commission requires livestock to be dipped, the livestock shall be submerged in a vat. A spray-dip machine may be used in areas where a vat is not reasonably available.

(viii) Careful hand spraying may be used for easily restrained horses and show cattle, and when specifically authorized by a commission representative, certain zoo or domestic animals.

(ix) Livestock unable to go through a dipping vat because of size or physical condition, as determined by a commission representative, may be hand sprayed.

(x) The dip treatment must be paint marked on the animals so that it can be identified for as treated for at least 17 days after the treatment.

(B) Authorized Treatment Requirements:

(i) Following the first clean dipping of 100% of the livestock, the cattle may be treated with injectable doramectin in lieu of systematic dipping. The owner or caretaker of cattle on an infested or exposed premises must present the livestock to be scratch inspected and treated with injectable doramectin every 21[25] -28 days until the livestock are moved from the premises in accordance with these regulations, except as provided in subsection (1)(C) of this section.

(ii) Treatment of doramectin shall be administered by subcutaneous injection by a representative of the commission.

(iii) The owner or caretaker must comply with the extended slaughter withholding period as determined by the commission and USDA APHIS following the last dose [(35 days)] of injectable doramectin by holding cattle at the premises of origin until the withdrawal period is completed.

(iv) Treatment is not official unless 100% of the livestock within the premises affected are treated on schedule.

(v) Free-ranging wildlife or exotic livestock that are found on infested or exposed premises, and which are capable of hosting fever ticks will be treated by methods approved by the commission and for the length of time specified by the commission.

(I) Ivermectin medicated corn may be administered to free-ranging wildlife or exotic livestock by a representative of the commission following the close of the hunting season, provided that treatment is terminated at least 60 days prior to the beginning of the next hunting season to comply with the required withdrawal period.

(II) Permethrin impregnated roller devices may be used for topical treatment of free-ranging wildlife or exotic livestock during periods when ivermectin medicated corn is not administered. The commission may specify the use of other pesticides for treatment of wildlife or exotic livestock when deemed necessary to control and eradicate fever ticks.

(C) Vaccination Requirements:

(i) The fever tick vaccine shall be administered by employees or authorized agents of the USDA/APHIS/Veterinary Services or the commission.

(ii) The owner or caretaker must comply with the 60-day [60 day] slaughter withholding period, or other slaughter withholding timeframe as specified by the label. The owner or caretaker must hold vaccinated cattle at the premises of origin until the withdrawal period is completed.

(iii) In addition to any dipping or treatment required by this section, beef cattle two months of age or older located within the tick eradication quarantine area shall be vaccinated with the fever tick vaccine at intervals prescribed by the commission. The vaccine must be administered when cattle are gathered and presented for annual inspection as required by §41.9 of this chapter (relating to Vacation and Inspection of a Premise) and at other times specified by the commission.

(iv) In addition to any dipping or treatment required by this section, the commission may require fever tick vaccination of beef cattle two months of age and older located within the temporary preventative quarantine area, control purpose quarantine area or other beef cattle or premises epidemiologically determined by the commission to be at an increased risk for fever ticks. The cattle shall be vaccinated at intervals prescribed by the commission.

(3) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 2, 2024.

TRD-202405789  
Jeanine Coggeshall  
General Counsel

Texas Animal Health Commission

Earliest possible date of adoption: January 12, 2025

For further information, please call: (512) 839-0511



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 10. GRANT PROGRAMS

## SUBCHAPTER D. RURAL RESIDENT PHYSICIAN [PHYSICAN] GRANT PROGRAM

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amending the subchapter title of Texas Administrative Code, Title 19, Part 1, Chapter 10, Subchapter D, Rural Resident Physician Grant Program. Specifically, this amendment will correct the misspelling of "Physician" in the subchapter title.

Elizabeth Mayer, Assistant Commissioner Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Elizabeth Mayer, Assistant Commissioner Academic and Health Affairs, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the subchapter will be grant management that is aligned with statute. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposal may be submitted to Elizabeth Mayer, Assistant Commissioner Academic and Health Affairs, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [AHA-comments@highered.texas.gov](mailto:AHA-comments@highered.texas.gov). Comments will be accepted for 10 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 58A.081, which provides the Coordinating Board with the authority to administer the Rural Resident Physician Grant Program and adopt program rules.

The proposed amendment affects Texas Education Code, Section 58A.081.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 2, 2024.

TRD-202405798

Nichole Bunker-Henderson

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: January 12, 2025

For further information, please call: (512) 427-6182

## TITLE 22. EXAMINING BOARDS

### PART 5. STATE BOARD OF DENTAL EXAMINERS

#### CHAPTER 102. FEES

##### 22 TAC §102.1

The State Board of Dental Examiners (Board) proposes this amendment to 22 TAC §102.1, concerning fees. The proposed amendment includes a \$100.00 fee for applicants who apply to become a Board approved continuing education course provider.

**FISCAL NOTE:** Casey Nichols, Executive Director, has determined that for the first five-year period the proposed rule is in effect, the proposed rule does not have foreseeable implications relating to cost or revenues of the state or local governments.

**PUBLIC BENEFIT-COST NOTE:** Casey Nichols has also determined that for the first five-year period the proposed rule is in effect, the public benefit anticipated as a result of this rule will be the protection of public safety and welfare.

**LOCAL EMPLOYMENT IMPACT STATEMENT:** Casey Nichols has also determined that the proposed rule does not affect local economies and employment.

**SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT:** Casey Nichols has determined that no economic impact statement and regulatory flexibility analysis for small businesses, micro-businesses, and rural communities is necessary for this proposed rule.

**GOVERNMENT GROWTH IMPACT STATEMENT:** The Board has determined that for the first five-year period the proposed rule is in effect, the following government growth effects apply: (1) the proposed rule does not create or eliminate a government program; (2) implementation of the proposed rule does not require the creation or elimination of employee positions; (3) the implementation of the proposed rule does not require an increase or decrease in future appropriations; (4) the proposed rule does require an increase in fees paid to the agency; (5) the proposed rule does not create a new regulation; (6) the proposed rule does not expand an existing regulation; (7) the proposed rule does not increase or decrease the number of individuals subject to it; and (8) the proposed rule does not positively or adversely affect the state's economy.

**COST TO REGULATED PERSONS:** The Board finds that the provisions of Texas Government Code Section 2001.0045(b) do not apply to the proposed rule because it is necessary to protect the health, safety, and welfare of the people of Texas, as provided in Section 2001.0045(c)(6).

Comments on the proposed rule may be submitted to Casey Nichols, Executive Director, 1801 Congress Avenue, Suite 8.600, Austin, Texas 78701, by fax to (512) 649-2482, or by email to [official\\_rules\\_comments@tsbde.texas.gov](mailto:official_rules_comments@tsbde.texas.gov) for 30 days following the date that the proposed rule is published in the *Texas Register*. To be considered for purposes of this rulemaking, comments must be: (1) postmarked or shipped by the last day of the comment period; or (2) faxed or e-mailed by midnight on the last day of the comment period.

This rule is proposed under Texas Occupations Code §254.001(a), which gives the Board authority to adopt rules necessary to perform its duties and ensure compliance with state laws relating to the practice of dentistry to protect the public health and safety, and Texas Occupations Code §254.004, which directs the Board to establish reasonable and necessary fees sufficient to cover the cost of administering the Board's duties.

No statutes are affected by this proposed rule.

*§102.1. Fees.*

(a) Effective March 12, 2024 [~~November 28, 2024~~], the Board has established the following reasonable and necessary fees for the ad-

ministration of its function. Upon initial licensure or registration, and at each renewal, the fees provided in subsections (b) - (d) of this section shall be due and payable to the Board.

Figure: 22 TAC §102.1(a)

[~~Figure: 22 TAC §102.1(a)~~]

(b) - (f) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 2, 2024.

TRD-202405788

Lauren Studdard

General Counsel

State Board of Dental Examiners

Earliest possible date of adoption: January 12, 2025

For further information, please call: (737) 363-2333

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