



TEXAS ANIMAL HEALTH COMMISSION

Coleman H. Locke
Chairman

Andy Schwartz, D.V.M.
Executive Director

April 30, 2020

Jennifer Jones, Director
Sunset Advisory Commission
PO Box 13066
Austin TX 78711

Dear Ms. Jones:

Thank you for the opportunity to respond to the Sunset Staff Report on the Texas Animal Health Commission (TAHC). We appreciate the professionalism of the project team and their willingness to learn about our agency and find more efficient and effective ways to serve the Texas animal agriculture industry.

In response to the specific issues and recommendations in the Sunset Staff Report, our agency is providing the following information:

Issue 1: TAHC's Laboratory is no longer needed or cost-effective, and should be closed.

Response to Issue:

I am proud of the service and contributions of the TAHC State-Federal Laboratory and its dedicated employees. Their services were instrumental in Texas achieving brucellosis and pseudorabies disease-free classifications, and livestock producers continue to benefit from the agency's core testing services which include rapid tick identification.

As reflected in the Sunset Staff Report, the National Health Laboratory Network (NAHLN) concerns are significant; however, it is important to note the three NAHLN tests and associated audits do not reflect on the reliability and value of the 13 surveillance tests performed by the TAHC State-Federal Laboratory related to routine regulatory program disease testing.

Although the TAHC's surveillance testing continues to be valuable, the Sunset Staff Report correctly noted the number of regulatory test samples submitted to the TAHC State-Federal Laboratory significantly decreased in fiscal year 2019. As such, the TAHC agrees that it would be most cost effective for the TAHC to retain its statutory authority to collect specimens and perform field tests to diagnose animal diseases while outsourcing other diagnostic services.

Recommendations:

William Edmiston, Jr., D.V.M.
Jim Eggleston
Ken Jordan
Barret J. Klein
Wendee C. Langdon, Ph.D.
Joe L. Leathers

COMMISSIONERS:

Thomas E. Oates
Joseph G. "Joe" Osterkamp
Keith M. Staggs
Leo D. Vermedahl, Ph.D.
Mike Vickers, D.V.M.
Eric D. White

CHANGE IN STATUTE

1.1 Require TAHC to close its laboratory and designate TVMDL as the state's regulatory animal health laboratory in statute.

To continue agency operations most cost-effectively, we agree the agency should contract out its laboratory testing, chiefly to the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL).

However, we recommend the TAHC be required to use TVMDL diagnostic services only to the extent testing is available, efficient, and cost effective. This is necessary for the following circumstances:

- USDA requires certain testing, such as confirmatory testing, to be conducted by the National Veterinary Services Laboratories (NVSL) in Ames, Iowa or other laboratories approved by USDA APHIS,
- USDA APHIS provides testing at no cost to the state for certain diseases,
- TVMDL does not offer the test, or
- In consultation with TVMDL, it is determined it would be most cost effective to outsource the testing due to low volume or other considerations.

The TAHC is currently working with TVMDL to determine the feasibility, timeline, and costs associated with transferring serological testing to TVMDL, while ensuring there are no gaps in services for Texas livestock producers. The TAHC is also working to identify any resources and statutory changes needed to facilitate timely sharing of documents and disease testing reports from TVMDL to TAHC. The TAHC anticipates entering into a memorandum of understanding with TVMDL and closing the TAHC State-Federal Laboratory on or before January 1, 2022.

Issue 2: TAHC's inconsistent and weak enforcement efforts may increase the risk of animal disease in Texas.

Response to Issue:

Not being a licensing agency, the TAHC's first contact with producers may be in an enforcement setting. As such, the TAHC has historically utilized warning letters and other regulatory correspondence to provide notice of the legal requirements and information to promote compliance with animal health laws and regulations. In an effort to strengthen enforcement actions and consistency, the TAHC has provided inspector and region management training, expanded the tracking capabilities of its compliance database, and required all instances of non-compliance to be documented. Although the TAHC has made progress in strengthening its enforcement efforts and consistency, the agency will continue to make this a priority and will propose a penalty matrix to the commission in 2020.

Recommendations:

CHANGE IN STATUTE

2.1 Require TAHC to regularly conduct trend analysis of its compliance data.

The TAHC agrees with this recommendation and has recently started conducting trend analysis of its compliance data. Regional summary information will be presented at commission meetings beginning in May 2020. As recommended, the TAHC has completed the importation of enforcement data from fiscal years 2013-18 into the existing database. The agency has revised its compliance database and will revise its compliance action request form to capture inspection type and use this information to analyze effective enforcement activities going forward. The agency anticipates completing this by September 2020.

The recommendations related to instituting a process to encourage timely entry and sharing of enforcement actions across regions and formal documentation of educational non-compliance conversations are further addressed under Management Action.

MANAGEMENT ACTION

2.2 Direct TAHC to complete and implement its penalty matrix.

The TAHC agrees with this recommendation and will complete and propose its penalty matrix to the commission and make it available to field inspectors no later than December 31, 2020.

2.3 Direct TAHC to include explicit guidance in all field manuals on documenting incidents of noncompliance and corresponding educational conversations.

The TAHC agrees with this recommendation and has trained staff to document all incidents of noncompliance. The agency will update field manuals to ensure expectations are clear and educational conversations are documented.

2.4 Direct TAHC to share its compliance database with regional office staff to facilitate information flow between Austin and the field.

The TAHC agrees with this recommendation and will make a monthly copy of the compliance database available to field staff by May 1, 2020. The TAHC will be testing the current database to determine if it can support additional and multiple users while maintaining functionality and integrity. The agency anticipates testing to be completed by July 1, 2020, with the recommendation to be fully implemented, including training of field staff, on or before December 31, 2020. This will ensure the timely entry and sharing of enforcement information across regions.

2.5 Direct TAHC and the Texas Department of Agriculture to enter into a memorandum of understanding to ensure TAHC is notified when animals are rejected at state animal export facilities.

The TAHC agrees with this recommendation and will work with the Texas Department of Agriculture to develop a memorandum of understanding.

2.6 Direct TAHC to review and update all training materials and guidelines for consistency and conformity with statute and rules.

The TAHC agrees with this recommendation and will ensure that all inspector manuals, policy documents, and other relevant materials are reviewed and updated to be consistent with statutes and rules.

Issue 3: TAHC's outdated laws, deficient rulemaking, and inadequate communications do not best serve industry or public interests.

Recommendations:

CHANGE IN STATUTE

3.1 Remove outdated, overly prescriptive, restrictive provisions in statute to provide TAHC more flexibility to prevent, manage, and eradicate reportable animal diseases.

The TAHC agrees that there are statutory provisions that should be removed in order to provide the agency more flexibility to prevent, manage, and eradicate reportable animal diseases. We look forward to being a resource for members of the 87th Legislature.

3.2 Authorize TAHC to establish advisory committees by rule.

The TAHC believes the recommendation to use advisory committees to obtain stakeholder input and expertise is promising. However, implementation could present challenges in finding individuals willing to participate without compensation or reimbursement for travel costs. The agency will work to ensure existing stakeholder working groups are more transparent and have broader representation.

MANAGEMENT ACTION

3.3 Direct TAHC to provide clear, consistent public information about state animal health laws and rules, regulatory programs, and appeals process.

The TAHC agrees with this recommendation and will take the steps outlined in the Sunset Staff Report to ensure the industry and public have access to clear regulatory guidelines and information about animal health statutes and rules, regulatory registration and permitting programs, and appeals processes.

3.4 Direct TAHC to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law.

The TAHC agrees with this recommendation and has implemented changes to ensure the four-year review of its rules is meaningful. The agency will formalize the changes into a policy and provide an update to the Sunset Commission by December 31, 2020.

3.5 Direct TAHC and Texas A&M AgriLife Extension Service to enter into a memorandum of understanding to jointly develop and coordinate educational programs and information about animal health.

The TAHC agrees that the partnership with Texas A&M AgriLife Extension Service (AgriLife) is working well and that there is significant value for the agencies to continue to identify educational outreach opportunities for reportable diseases and animal health education programs. If recommended, the TAHC will work with AgriLife to formalize the existing relationship with a memorandum of understanding.

Issue 4: Texas has a continuing need for the Texas Animal Health Commission.

Recommendations:

CHANGE IN STATUTE

4.1 Continue TAHC for 12 Years.

The TAHC agrees that Texas has a continuing need for this agency, and we are proud to continue serving the state's animal agriculture community for another 12 years.

4.2 Update the standard Sunset across-the-board requirements on commission member training and grounds for removal.

In accordance with this recommendation, training will be provided to incoming and existing commission members to include information and guidance about the scope of, and limitations on, TAHC's rulemaking authority. We agree that any agency could benefit from a statutory change that would specify the grounds

for removal of commission members by including and clearly referencing noncompliance with qualifications for public membership as grounds for removal.

Sincerely,

A handwritten signature in black ink that reads "Andy Schwartz, D.V.M.". The signature is written in a cursive, flowing style.

Dr. Andy Schwartz
Executive Director and State Veterinarian

From: [Janet Wood](#)
To: [Trisha Linebarger](#)
Subject: FW: TAHC Updates
Date: Wednesday, September 23, 2020 10:36:11 AM
Attachments: [Sunset Staff Report TAHC Updates.docx](#)

From: Myra Sines <Myra.Sines@tahc.texas.gov>
Sent: Wednesday, September 23, 2020 9:46 AM
To: Janet Wood <Janet.Wood@sunset.texas.gov>; Darren McDivitt <Darren.McDivitt@sunset.texas.gov>
Cc: Mary Luedeker <Mary.Luedeker@tahc.texas.gov>; Myra Sines <Myra.Sines@tahc.texas.gov>
Subject: TAHC Updates

Good morning,

Attached are the updates for the Texas Animal Health Commission in response to the Sunset Staff Report.

Please let me know if you have any questions.

Thank you,

Myra Sines

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SUNSET STAFF REPORT RECOMMENDATIONS AND AGENCY STATUS REPORT

Issue Number	Type	Sunset Recommendation	Status
1		The TAHC's laboratory is no longer needed or cost-effective, and should be closed.	
1.1	Change in Statute	<p>Require TAHC to close its lab and designate TVMDL as the state's regulatory animal health laboratory in statute effective Sept. 1, 2021. Both TVMDL and TAHC would receive funding for staff positions, and TAHC would receive funding to cover TVMDL's lab service fees. TAHC would retain statutory authority to collect specimens and perform field tests to diagnose animal diseases.</p> <ul style="list-style-type: none"> - MOU or contract to address lab fees, billing processes, reporting timeframes, interagency communications, emergency response plans/procedures, other details as needed. - TAHC and TVMDL required to review and renew MOU and contract annually to adjust to changing animal disease testing needs and to help guide respective legislative appropriations requests 	<p>Pending Sunset Recommendation</p> <p>Modification Requested</p> <p>09/23/2020: TAHC Commission approved staff request to initiate TFC process to cancel laboratory lease.</p>
2		TAHC's inconsistent and weak enforcement efforts may increase the risk of animal disease.	
2.1	Change in Statute	<p>Require TAHC to regularly conduct trend analysis of its compliance data.</p> <ul style="list-style-type: none"> - Institute processes that encourage the timely entry and sharing of enforcement information across regions. - Require formal documentation of educational conversations with producers regarding incidents of noncompliance. - Import enforcement data from fiscal years 2013-2018 into the existing database to provide a historical view of the agency's enforcement efforts and the results of those efforts. - Report the results of the analysis to the commission regularly. 	<p>Completed</p> <p>Completed</p> <p>Completed</p> <p>Completed</p>



2.2	Management Action	Direct TAHC to complete and implement a penalty matrix.	Completed
2.3	Management Action	Direct TAHC to include explicit guidance in all field manuals on documenting incidents of noncompliance and corresponding educational conversations.	Underway
2.4	Management Action	<p>Direct TAHC to share its compliance database with regional office staff to facilitate information flow between Austin and the field.</p> <ul style="list-style-type: none"> - Allow regional staff to check compliance record of producers they interact with, more proactively file complaints against repeat offenders, and better understand what information is necessary to effectively document violations. 	Completed
2.5	Management Action	Direct TAHC and TDA to enter into a MOU to ensure TAHC is notified when animals are rejected at state animal export facilities.	<p>Pending Sunset Recommendation</p> <p>Modification Requested</p>
2.6	Management Action	<p>Direct TAHC to review and update all training materials and guidelines for consistency and conformity with statute and rules.</p> <ul style="list-style-type: none"> - Review to ensure agency awareness of deviations from statute and rules and would help prioritize which materials to update immediately. 	Underway
3		TAHC's outdated laws, deficient rulemaking, and inadequate communications do not best serve industry or public interests.	
3.1	Change in Statute	<p>Remove outdated, overly prescriptive, restrictive provisions in statute to provide TAHC with more flexibility to prevent, manage, and eradicate reportable animal diseases.</p> <ul style="list-style-type: none"> - Eliminate two statutory lists of 11 diseases TAHC must protect against and 16 diseases that must be reported within 24 hours of 	Pending Sunset Recommendation



		<p>diagnosis, and instead require the commission to adopt and update as needed a list of reportable animal diseases in rule.</p> <ul style="list-style-type: none"> - Authorize the commission to adopt rules more stringent than federal rules for contagious swine diseases by a two-thirds vote for a specific swine disease or emergency, similar to the existing statutory provision for animal identification programs. - Authorize rather than require the commission to establish quarantines against other states and countries with disease outbreaks. - Eliminate prescriptive statutory provisions for animal testing requirements and disease and pest treatment methods, including but not limited to dipping, test result reporting timeframes, and treatment time intervals. Require commission to adopt and update as needed animal testing and disease and pest treatment requirements in rule. - Eliminate statutory authority that conflicts with federal regulations that prohibit owners and county agents from using hog cholera vaccines. 	
3.2	Change in Statute	Authorize TAHC to establish advisory committees by rule.	Pending Sunset Recommendation
3.3	Management Action	<p>Direct TAHC to provide clear, consistent public information about state animal health laws and rules, regulatory programs, and appeals process.</p> <ul style="list-style-type: none"> - Prepare and update as needed printable, searchable electronic documents of the agency's statutes and rules, and make them available online and by email at no charge to the public. Provide printed copies upon request. TAHC has the authority to charge fees to recover costs of printing and mailing. - Provide public information and downloadable application forms on its website for all of its permitting and registration programs, 	<p>Completed</p> <p>Completed</p>



		<p>including swine garbage feeder facilities, feral swine holding facilities, and feral swine hunting preserves.</p> <ul style="list-style-type: none"> - Provide information about TAHC's appeal and protest processes on TAHC's website and in written notices and herd plans regarding animals infected by or exposed to a reportable disease. - Develop a plan, process and timeline for reviewing communications materials on animal health regulations to improve clarity, readability, and formatting. 	<p>Completed and Underway</p> <p>Underway</p>
3.4	Management Action	Direct TAHC to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law.	Underway
3.5	Management Action	Direct TAHC and Texas A&M AgriLife Extension Service to enter into a MOU to jointly develop and coordinate educational programs and information about public health.	Pending Sunset Recommendation
4		Texas has a continuing need for TAHC.	
4.1	Change in Statute	Continue TAHC for 12 years.	
4.2	Change in Statute	<p>Update standard Sunset across-the-board requirements on commission member training and grounds for removal.</p> <ul style="list-style-type: none"> - Require TAHC to develop a training manual that each member attests to receiving annually. - Require existing commission member training to include information and guidance about the scope of, and limitations on, TAHC's rulemaking authority. - Specify the grounds for removal of commission members by including and clearly referencing noncompliance with qualifications for public membership as grounds for removal. 	<p>Completed for new members</p> <p>Completed</p> <p>Pending Sunset Recommendation</p>