

Texas Administrative Code

Chapter 20 Cotton Pest Control

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SUBCHAPTER A. GENERAL PROVISIONS

§20.1 Definitions

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

(1) Certificate--A phytosanitary certificate issued by an authorized representative of the department allowing the movement of plants or plant products, or a document issued by an authorized representative of the department allowing the movement of equipment or vehicles.

(2) Certified Cotton Producer Organization--An organization approved and certified under the requirements established by the National Cotton Council.

(3) Compliance agreement--A written agreement signed by a person engaged in growing, distributing, handling or moving regulated articles whereby, he or she agrees to comply with conditions specified in the agreement concerning the basis upon which a certificate may be issued for movement of regulated articles or for the purposes of compliance with applicable rules.

(4) Commercial cotton--Cotton grown for sale or barter.

(5) Commercial cotton field--A field in which commercial cotton has been planted, or is being grown, until either:

(A) the end date for destruction requirements, as provided in §20.22 of this chapter (relating to Stalk Destruction Requirements), for fields in a pest management zone; or

(B) the emergence of a new cotton crop in the area, for fields not located in a pest management zone.

(6) Cotton--Any parts of cotton or wild cotton plants; this definition includes all members of the genera *Gossypium* and *Thurberia*.

(7) Cotton lint--All forms of raw ginned cotton except linters and gin waste.

(8) Cotton products--Seed cotton, cotton lint, linters, oil mill waste, gin waste, squares, bolls, gin trash, cotton seed, cottonseed hulls, and all other forms of unmanufactured cotton fiber.

(9) Cotton seed--The seed of the cotton plant, separated from lint.

(10) Destroyed, or destruction--Compliant with applicable requirements and restrictions established in Subchapters C and D of this chapter; for noncommercial cotton, made non-hostable.

(11) Destruction deadline--The date established in this chapter for destruction of cotton stalks.

(12) Eradicated area--An area apparently free of boll weevil or, for which scientific documentation acceptable to the department has been provided that indicates that no boll weevils were captured for a period of at least one cotton growing season by weevil pheromone traps operated by the Texas Boll Weevil Eradication Foundation or other governmental agency.

(13) Eradication area--A defined area in which a boll weevil eradication program has been initiated.

(14) Foundation--The Texas Boll Weevil Eradication Foundation, Inc.

(15) Functionally eradicated area--An area meeting the trapping criteria for a suppressed area with no confirmed evidence of boll weevil reproduction occurring in the area and no oviposition in squares, and in which the movement of regulated articles presents a threat to the success of the boll weevil eradication program. The boll weevil population must be equal to or less than an average of 0.001 boll weevils per trap per week for the cotton growing season as measured by boll weevil pheromone traps operated by the Texas Boll Weevil Eradication Foundation or other governmental agency.

(16) Gin notes--Short fragments of unmanufactured cotton fiber removed from lint cleaners after ginning cotton.

(17) Gin trash--All material produced during the cleaning and ginning of seed cotton, except lint, linters, cotton seed, and gin waste.

(18) Gin waste--All forms of unmanufactured waste cotton fiber resulting from the ginning of seed cotton, including gin notes.

(19) Hostable material--In Subchapter A or B of this chapter, cotton fruiting structures such as buds, squares, flowers or bolls.

(20) Hostable commercial cotton fee--The hostable cotton fee established in Texas Agriculture Code, §74.032, as enacted by House Bill 1580, 81st Legislature, 2009, which applies to hostable cotton stalks, volunteer cotton or noncommercial cotton which remain past the stalk destruction deadline in a commercial cotton field.

(21) Hostable cotton (or hostable)--In Subchapters C and D of this chapter, cotton with fruiting structures including buds, squares, flowers, uncracked bolls or unopened bolls.

(22) Hostable noncommercial cotton fee--The volunteer cotton fee established in Texas Agriculture Code, §74.119, as amended by House Bill 1580, 81st Legislature, 2009, which applies to hostable cotton stalks, volunteer cotton or noncommercial cotton in a crop field or other location that is not a commercial cotton field.

(23) Linters--Residual unmanufactured cotton fiber separated from cottonseed after the lint has been removed.

(24) New crop--Cotton planted on or after the earliest planting date that follows the most recent destruction deadline.

(25) Non-hostable cotton (or non-hostable)--In Subchapters C and D of this chapter cotton that is free of living, normally colored (not wilted or darkened) fruiting structures including buds, squares, flowers, uncracked bolls or unopened bolls.

(26) Noncommercial cotton--Any cotton that is not commercial cotton.

(27) Oil mill waste--Waste products, including linters, derived from the milling of cottonseed.

(28) Plow--To dislodge or sever the roots of plants in a manner which prevents further growth. Equipment used to accomplish this could include a stalk puller, any type of plow, or similar implement.

(29) Protection plan--A plan developed for the purpose of mitigating, with the goal of preventing, boll weevil infestation and establishment in an area. Mitigating measures may include, but are not limited to, the following:

(A) the field treatment of cotton and cotton products prior to delivery to an area or a gin by an approved insecticide;

(B) requirements for moving, handling, storage and treatment or use of approved insecticide applications to regulated articles; and

(C) monitoring of boll weevils at a specified site(s) as approved by the department.

(30) Regrowth cotton, or regrowth--Vegetative and/or reproductive growth produced on a cotton plant following its destruction or partial destruction.

(31) Restricted Area--An area designated as suppressed, functionally eradicated, or eradicated of boll weevils, as those terms are defined in this section.

(32) Seed cotton--All forms of un-ginned cotton from which the seed has not been separated.

(33) Stalk puller--An implement which dislodges the roots of cotton plants by pulling up the stalks.

(34) Suppressed area--An area in which some boll weevil reproduction may be present in the area or a portion thereof, and in which the movement of regulated articles presents a threat to the success of the boll weevil eradication program. The boll weevil population must be equal to or less than 0.025 boll weevils per trap per week for the cotton-growing season as measured by boll weevil pheromone traps operated by the Texas Boll Weevil Eradication Foundation or other governmental agency.

(35) Trap--Type of adult boll weevil pheromone trap approved by the Texas Boll Weevil Eradication Foundation.

(36) Treatment--The act of eliminating possible cotton pest infestation(s) by means of cleaning, spraying or fumigation to eliminate the infestation.

(37) Volunteer cotton--For purposes of this chapter, a cotton plant or plants that were not deliberately planted.

Source Note: The provisions of this §20.1 adopted to be effective September 2, 1996, 21 TexReg 7967; amended to be effective August 27, 2000, 25 TexReg 8023; amended to be effective July 9, 2001, 26 TexReg 4996; amended to

be effective August 25, 2002, 27 TexReg 7511; amended to be effective August 1, 2004, 29 TexReg 7089; amended to be effective March 26, 2006, 31 TexReg 2143; amended to be effective July 19, 2007, 32 TexReg 4383; amended to be effective January 25, 2009, 34 TexReg 413; amended to be effective September 1, 2009, 34 TexReg 5897; amended to be effective November 1, 2011, 36 TexReg 7313

§20.3 *Violations and Enforcement Actions*

(a) Violations. In addition to any other violations that may arise under requirements of the Texas Agriculture Code, Chapter 74, or regulations adopted pursuant to the Texas Agriculture Code, Chapter 71 or Chapter 74:

(1) Failure to comply with cotton stalk destruction requirements outlined in Subchapter C of this chapter (relating to Stalk Destruction Program) or Subchapter D of this chapter (relating to Regulation of Volunteer and Other Noncommercial Cotton; Hostable Cotton Fee) constitutes a violation.

(2) Cotton that is allowed to develop fruiting structures after the destruction deadline constitutes a violation, if the producer or responsible party fails to submit a required hostable commercial cotton fee or a hostable noncommercial cotton fee.

(b) Enforcement Actions.

(1) The department may direct any means of conveyance containing plants, plant products, or other items susceptible to cotton pest contamination to an authorized inspection point for treatment or reinspection prior to entering a restricted area. To minimize the risk of contamination of a restricted area by such means of conveyance discovered or apprehended in restricted areas, the department may seize and maintain control over the means of conveyance and its relevant contents until the department is satisfied that they are safely decontaminated or that they no longer pose a threat to the quarantine. Any costs associated with such decontamination (including the cost of decontamination, transportation of the means of conveyance, destruction of contaminated materials, and special materials that the department may deem necessary to prevent regulated materials from leaving the means of conveyance) are the responsibility of the violator(s).

(2) Any violation of these rules is subject to civil and criminal penalties. In addition, the department may revoke a certificate or compliance agreement, and/or assess administrative penalties as prescribed in the Texas Agriculture Code, §12.020, against any person for a violation of these rules and/or for failure to adhere to the conditions of a protection plan.

Source Note: The provisions of this §20.3 adopted to be effective September 2, 1996, 21 TexReg 7967; amended to be effective July 9, 2001, 26 TexReg 4996; amended to be effective August 25, 2002, 27 TexReg 7511; amended to be effective August 1, 2004, 29 TexReg 7089; amended to be effective September 1, 2009, 34 TexReg 5897

SUBCHAPTER B. QUARANTINE REQUIREMENTS

§20.10 *Quarantined Pest*

The quarantined pest is the boll weevil, *Anthonomus grandis* Boheman, in any living stage of development.

Source Note: The provisions of this §20.10 adopted to be effective July 9, 2001, 26 TexReg 4996; amended to be effective August 1, 2004, 29 TexReg 7089

§20.11 *Quarantined Areas*

The quarantined areas are those areas not declared as suppressed, functionally eradicated, or eradicated.

Source Note: The provisions of this §20.11 adopted to be effective July 9, 2001, 26 TexReg 4996

§20.12 *Suppressed Areas*

(a) The commissioner may grant a request for declaration of an area in Texas as suppressed after a written recommendation is submitted to the department from the Foundation, supported by scientific documentation acceptable to the department indicating that movement of regulated articles into the area presents a threat to the success of boll weevil eradication.

(b) The department will recognize as suppressed any areas outside of Texas that are declared suppressed by that state's department of agriculture if the Texas Department of Agriculture determines that state's definition of a suppressed area is equivalent to the definition of a suppressed area found in Subchapter A of this chapter (relating to General Provisions).

(c) The department has determined that the New Mexico and Oklahoma departments of agriculture's definitions of a suppressed area are equivalent to the definition of a suppressed area in Subchapter A of this chapter.

Source Note: The provisions of this §20.12 adopted to be effective July 9, 2001, 26 TexReg 4996; amended to be effective May 17, 2004, 29 TexReg 4756; amended to be effective October 7, 2004, 29 TexReg 9353; amended to be effective September 13, 2005, 30 TexReg 5779; amended to be effective July 26, 2007, 32 TexReg 4547; amended to be effective September 30, 2010, 35 TexReg 8723; amended to be effective June 14, 2012, 37 TexReg 4184; amended to be effective January 1, 2016, 40 TexReg 9625

§20.13 *Functionally Eradicated Areas*

(a) The commissioner may grant a request for declaration of an area in Texas as functionally eradicated after a written recommendation is submitted to the department from the Foundation, supported by scientific documentation acceptable to the department indicating that movement of regulated articles into the area presents a threat to the success of boll weevil eradication.

(b) The Northern Blacklands (NBL), Southern Blacklands (SBL), Upper Coastal Bend (UCB) and South Texas Winter Garden (STWG) Boll Weevil Eradication Zones, as defined in the Texas Agriculture Code, §74.1021, have been declared as functionally eradicated by the Commissioner.

(c) The department will recognize functionally eradicated any areas outside of Texas that are declared functionally eradicated by that state's department of agriculture if that state's definition of a functionally eradicated area is equivalent to the definition of a functionally eradicated area in Subchapter A of this chapter (relating to General Provisions).

(d) The department has determined that the definitions of a functionally eradicated area of New Mexico and Oklahoma departments of agriculture are equivalent to the definition of a functionally eradicated area in Subchapter A of this chapter.

Source Note: The provisions of this §20.13 adopted to be effective July 9, 2001, 26 TexReg 4996; amended to be effective May 20, 2002, 27 TexReg 4323; amended to be effective October 7, 2004, 29 TexReg 9353; amended to be effective September 30, 2010, 35 TexReg 8723; amended to be effective January 1, 2016, 40 TexReg 9625

§20.14 *Eradicated Areas*

(a) The Commissioner may grant a request for declaration of an area in Texas as eradicated after a written recommendation is submitted to the department by the

Foundation, supported by scientific documentation acceptable to the department indicating that movement of regulated articles into the area presents a threat to the success of boll weevil eradication.

(b) The West Texas Maintenance Area, as provided in §3.702 (related to West Texas Maintenance Area), has been declared as eradicated by the Commissioner.

(c) The department will recognize as eradicated any areas outside of Texas that are declared eradicated by that state's department of agriculture if that state's definition of an eradicated area is equivalent to the definition of an eradicated area in Subchapter A of this chapter (relating to General Provisions).

(d) The department has determined that the definitions of an eradicated area of the New Mexico and Oklahoma departments of agriculture are equivalent to the definition of an eradicated area in Subchapter A of this chapter.

Source Note: The provisions of this §20.14 adopted to be effective July 9, 2001, 26 TexReg 4996; amended to be effective October 7, 2004, 29 TexReg 9353; amended to be effective January 1, 2016, 40 TexReg 9625

§20.15 *Regulated Articles*

(a) The quarantined pest as defined in §20.10 of this title (relating to Quarantined Pest).

(b) Cotton harvesting equipment and other equipment associated with the production and transport of cotton, including, but not limited to the following:

(1) harvest equipment:

(A) cotton pickers;

(B) cotton strippers; or

(C) other mechanical harvesting equipment;

(2) handling and transport equipment:

(A) module builders;

(B) module hauling equipment;

(C) boll buggies; and

(D) any other equipment or vehicles associated with cotton harvest;

(3) miscellaneous associated equipment:

(A) trucks (service trucks, parts trucks, harvesting equipment trucks);

(B) flatbed trailers, portable living quarters, fuel and all other support vehicles; and

(C) tractors, shredders, plows, discs, and other equipment associated with stalk destruction activities which have regulated articles present; and

(4) vehicles used to remove and/or transport cotton products.

(c) Gin equipment previously used for the ginning of cotton.

(d) Cotton products as defined in §20.1 of this title (relating to Definitions).

(e) Cotton as defined in §20.1 of this title (relating to Definitions).

(f) All other products, articles or means of conveyance not covered above when the quarantined pest is present.

Source Note: The provisions of this §20.15 adopted to be effective July 9, 2001, 26 TexReg 4996

§20.16 Restrictions

(a) General. Movement of regulated articles is prohibited in the following cases:

(1) from or through a quarantined area to an eradicated area, a functionally eradicated area, or a suppressed area;

(2) from or through a suppressed area to an eradicated area or a functionally eradicated area;

(3) from or through a functionally eradicated area to an eradicated area;

(4) when the department determines that the movement may cause an increase in infestation of boll weevil; or

(5) from an area infested with the boll weevil if the area is not participating in the boll weevil eradication program.

(b) Exemptions. The following are exempt from the requirements of this subchapter if the regulated article is originating from an area participating in the boll weevil eradication program:

(1) cotton seed and vehicles transporting the seed;

(2) baled cotton, baled gin motes and linters and vehicles transporting baled cotton and baled gin motes and linters; and

(3) manufactured cotton products.

(c) Exceptions. The following are exceptions to the restrictions in subsection (a) of this section if the regulated article is originating from an area participating in the boll weevil eradication program:

(1) Cotton harvesting equipment and other equipment associated with the production and transport of cotton as well as used gin equipment, otherwise prohibited from

movement by these rules, may be moved to or through a restricted area provided the equipment is free of hostable material, seed cotton and boll weevils in any stage of development or treated in one of the following manners:

(A) physical removal of hostable material and seed cotton including, but not limited to, the following methods:

(i) removal by hand.

(ii) high-pressure air cleaning; or

(iii) high pressure washing; or

(B) fumigation of regulated articles as prescribed by the department.

(2) Cotton products and other regulated articles, otherwise prohibited from movement by these rules, may be transported to or through a restricted area provided that the producer, transporter, ginner, or other responsible party has implemented a protection plan approved by the department and operates under the conditions of a compliance agreement established with the department.

(3) A USDA certificate of inspection (PPQ Form 540-- used to certify equipment free of pink bollworm) showing that cotton harvesting equipment or other equipment associated with the production and transport of cotton, as well as used gin equipment, has been cleaned or fumigated is acceptable to the department as an exception to the restrictions set forth in subsection (a) of this section.

(4) Movement of regulated articles through Sterling County is exempted from the requirements of this subchapter.

Source Note: The provisions of this §20.16 adopted to be effective July 9, 2001, 26 TexReg 4996; amended to be effective August 1, 2004, 29 TexReg 7089; amended to be effective July 26, 2007, 32 TexReg 4547; amended to be effective February 6, 2014, 39 TexReg 483

§20.17 Inspections and Certificates

(a) Inspections. An inspection for movement of regulated articles within Texas is not required, but may be obtained upon request to the department.

(b) Certificates.

(1) An inspection certificate may be issued certifying the movement of regulated articles in compliance with these rules, for the current growing season, if an authorized representative of the department determines:

(A) that adequate measures have been taken to ensure that there will be little or no danger of increased infestation of the quarantined pest or expansion of a regulated area by such movement; or

(B) that the articles have been treated to eliminate infestation of the quarantined pest, for a specific location; or

(C) that such movement will not result in the spread or increased infestation of the quarantined pest.

(2) Any certificate may be withdrawn or cancelled if an authorized representative of the department determines that the use of the issued certificate may result in the spread of the quarantined pest.

Source Note: The provisions of this §20.17 adopted to be effective July 9, 2001, 26 TexReg 4996

SUBCHAPTER C. STALK DESTRUCTION PROGRAM

§20.20 Pest Management Zones

(a) Establishment. The department may establish a geographical zone of all or part of one or more counties to control or prevent the spread of cotton pests.

(1) A petition for establishment or change of zone boundaries of a pest management zone will be considered if submitted by: a certified cotton producer organization within the pest management zone; a County Extension Agriculture Committee; a county Farm Service Agency (FSA) Committee; an established agriculture business that is representative of the proposed pest management zone; or any other established business or non-profit organization as approved by the department.

(2) A recommendation for change of a pest management zone's boundaries will also be considered by the department if approved by majority vote of the pest management zone's Cotton Producer Advisory Committee and so documented in the meeting minutes.

(b) Zones. Established zones include the following counties:

(1) Zone 1. Brooks, Cameron, Hidalgo, Jim Hogg, Starr, Willacy, Zapata and the southern part of Kenedy County encompassing the area below an east-west line through Katherine and Armstrong, Texas.

(2) Zone 2, Area (1). Duval and Webb.

(3) Zone 2, Area (2). Jim Wells, Kleberg, Nueces, and the northern portion of Kenedy County encompassing the area above an east-west line through Katherine and Armstrong, Texas.

(4) Zone 2, Area (3). Aransas except for that part north of Copano Bay (including but not limited to Lamar and Blackjack peninsulas), San Patricio and south and east of U.S. Highway 59 in Bee and Live Oak.

(5) Zone 2, Area (4). Aransas north of Copano Bay (including but not limited to Lamar and Blackjack peninsulas), Calhoun, Goliad, LaSalle, McMullen, Refugio, Victoria and north and west of U.S. Highway 59 in Bee and Live Oak.

(6) Zone 3. Austin, Brazoria, Chambers, Colorado, Fayette, Fort Bend, Galveston, Gonzales, Harris, Jackson, Jefferson, Lavaca, Liberty, Matagorda, Orange, Waller and Wharton.

(7) Zone 4. Atascosa, Bexar, DeWitt, Dimmit, Frio, Karnes, Kinney, Maverick, Medina, Uvalde, Val Verde, Wilson, and Zavala.

(8) Zone 6. Bastrop, Burnet, Caldwell, Comal, Guadalupe, Hays, Lee, Milam, Travis, and Williamson.

(9) Zone 7, Area (1). Anderson, Angelina, Cherokee, Houston, Leon, Nacogdoches, Panola, Rusk, Sabine, San Augustine, Shelby and Smith.

(10) Zone 7, Area (2). Brazos, Burleson, Grimes, Hardin, Jasper, Madison, Montgomery, Newton, Polk, Robertson, San Jacinto, Trinity, Tyler, Walker and Washington.

(11) Zone 8 Area (1). Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, and McLennan.

(12) Zone 8 Area (2). Ellis, Henderson, Hood, Johnson, Navarro and Somervell.

(13) Zone 9. Pecos, Reeves and Ward.

(14) Zone 10. El Paso County and that portion of Hudspeth County bounded by Interstate Highway 10 on the north, the El Paso County line on the west, the Rio Grande River on the south and a line from old Fort Quitman, north along Highway 34 to Interstate 10 on the east.

Source Note: The provisions of this §20.20 adopted to be effective September 2, 1996, 21 TexReg 7969; amended to be effective August 25, 2002, 27 TexReg 7511; amended to be effective August 1, 2004, 29 TexReg 7089; amended to be effective March 26, 2006, 31 TexReg 2143; amended to be effective July 19, 2007, 32 TexReg 4383; amended to be effective September 13, 2018, 43 TexReg 5773

§20.21 Cotton Producer Advisory Committees

(a) Each pest management zone shall be governed by a Cotton Producer Advisory Committee. Producer representation of counties within the zone shall be based on the previous year's total certified cotton production acreage in each county as follows:

(1) one to 25,000 acres = one representative;

(2) 25,001 to 50,000 acres = two representatives;

- (3) 50,001 to 75,000 acres = three representatives;
- (4) 75,001 to 100,000 acres = four representatives;
- (5) 100,001 to 125,000 acres = five representatives;
- (6) 125,001 to 150,000 acres = six representatives;
- (7) 150,001 to 175,000 acres = seven representatives;
- (8) 175,001 to 200,000 acres = eight representatives;
- (9) 200,001 to 225,000 acres = nine representatives; and
- (10) more than 225,001 acres = ten representatives.

(b) The commissioner shall appoint the producer members of the Cotton Producer Advisory Committee for a term of two years expiring on December 31 of the second year. Appointees may be selected from a pool of nominees submitted by a certified cotton producer organization within the pest management zone, or nominees may be submitted for each individual county by: a County Extension Agriculture Committee; a county FSA Committee; an established agriculture business that is representative of the entire county; or any other established business or non-profit organization as designated by the department.

(c) A producer advisory committee member must be an active producer or a resident landowner of land in cotton production in the county they will represent. A committee member may be re-appointed for consecutive terms.

Source Note: The provisions of this §20.21 adopted to be effective September 2, 1996, 21 TexReg 7969.

§20.22 *Stalk Destruction Requirements*

(a) Deadline and methods. From the destruction deadline until the end date for destruction requirements, all cotton plants in a Pest Management Zone shall be non-hostable. Enforcement of destruction requirements begins on the day immediately following the destruction deadline date. Additional requirements for stalk destruction are as follows:

- (1) Zone 9--All cotton plants shall be shredded.
- (2) Zone 10--All cotton plants shall be shredded; also, the field shall be:
 - (A) Plowed, with soil being tilled to a depth of six or more inches; or
 - (B) Flood irrigated, following shredding of the plants, with sufficient irrigation applied to wet all soil. When flood irrigation is elected:
 - (i) In advance of the irrigation date, the department shall be notified in writing of intent to flood irrigate (specifying the field's location, FSA Farm Number, FSA

Tract Number, FSA Field Number, a contact person and a contact phone number).

(ii) A copy of irrigation records shall be presented for inspection during normal working hours, within 5 working days, if so requested in writing by the department.

(3) The destruction deadlines and end date for destruction requirements for cotton plants in each Pest Management Zone are prescribed as follows:

Attached Graphic

(b) Deadline extensions.

(1) The department may, on written request by a farm owner and/or operator, grant an extension of the cotton destruction deadline in any pest management zone. Requests for extensions in any zone may be granted for the reasons listed in subparagraphs (A) - (E) of this paragraph:

- (A) research conducted inside a sealed greenhouse or lab;
- (B) weather factors;
- (C) illness;
- (D) mechanical failure; or
- (E) other good cause.

(2) The department may grant a blanket extension of the destruction deadline covering an entire cotton stalk destruction zone or a portion of an entire zone in any one of the following circumstances:

- (A) in response to a written request by the cotton producer advisory committee, in a given zone authorized and signed by a majority of the committee members;
- (B) in response to a written request by the chairman of the cotton producer advisory committee, or his designee, on behalf of the committee; or
- (C) in response to a significant number of individual written requests for individual extensions from cotton producers in a given zone as the result of an extreme weather event such as prolonged periods of heavy rain, prolonged periods of drought, a tropical storm, a hurricane, or other such extreme weather event.

(3) A blanket extension may be implemented at the department's own initiative if a zone or other area experiences a serious unforeseen condition that prevents the department from surveying fields for compliance or which clearly makes compliance by a substantial majority of producers impossible.

(4) Request forms may be obtained from any of the following locations within a cotton pest management zone:

- (A) County Extension office;
- (B) Farm Service Agency office; or
- (C) Texas Department of Agriculture.

(5) Failure to complete the form entirely may result in denial of the request.

(6) Submission of extension requests:

(A) All requests for blanket or individual extensions must be hand-delivered to the department or submitted by mail, email, or fax, and be postmarked or electronically date-stamped by the department no later than the end of the date of the deadline.

(B) Late submission of an extension request may result in its denial.

(c) Enforcement suspensions.

(1) The department may temporarily suspend cotton stalk destruction deadline enforcement activities in a zone or portion thereof, due to conditions that temporarily prevent enforcement activities.

(2) During an enforcement suspension, for the zone or portion thereof under suspension, no new violations of the cotton stalk destruction deadline will be documented; compliance deadlines for previously recorded violations of the deadline will not advance; and penalty periods related to the deadline will not accrue.

(3) At the end of the enforcement suspension, all suspended activities and processes will resume, at the point where they had left off.

(d) Cotton in a zone must be in compliance with the respective stalk destruction requirements and may not be planted after the stalk destruction deadline until the earliest planting date listed in the table in subsection (a) of this section.

(e) At the end date of destruction requirements listed in the table in subsection (a) of this section, the requirement to destroy original growth, regrowth, or volunteer cotton from the previous crop year shall end for original growth, regrowth, or volunteer cotton that occurs in a commercial cotton field. Violations arising in a zone prior to the end date for destruction requirements will be pursued, but penalties shall cease to accrue on the end date for destruction requirements.

(f) Cotton covered by a noncommercial cotton permit issued by the department shall be exempt from the requirements of this section.

Source Note: The provisions of this §20.22 adopted to be effective September 2, 1996, 21 TexReg 7969; amended to be effective March 27, 1997, 22 TexReg 2869; amended to be effective August 11, 1998, 23 TexReg 8037; amended to be effective January 26, 2000, 25 TexReg 378; amended to be effective August 27, 2000, 25 TexReg 8024; amended to be effective June 13, 2001, 26 TexReg 4081; amended to be effective April 4, 2002, 27 TexReg 2433; amended to be effective August 25, 2002, 27 TexReg 7511; amended to be effective January 12, 2004, 29 TexReg 358; amended to be effective August 1, 2004, 29

TexReg 7089; amended to be effective October 7, 2004, 29 TexReg 9353; amended to be effective March 26, 2006, 31 TexReg 2143; amended to be effective July 9, 2006, 31 TexReg 5279; amended to be effective July 19, 2007, 32 TexReg 4383; amended to be effective September 14, 2008, 33 TexReg 7513; amended to be effective January 25, 2009, 34 TexReg 413; amended to be effective September 1, 2009, 34 TexReg 5897; amended to be effective September 1, 2011, 36 TexReg 5200; amended to be effective April 8, 2015, 40 TexReg 1967; amended to be effective September 13, 2018, 43 TexReg 5773

SUBCHAPTER D. REGULATION OF VOLUNTEER AND OTHER NONCOMMERCIAL COTTON; HOSTABLE COTTON FEE

§20.30 Hostable Cotton in Commercial Cotton Fields

(a) Hostable Commercial Cotton Fee. Hostable unharvested cotton, hostable harvested cotton, or hostable volunteer or other hostable noncommercial cotton, including regrowth, found in a commercial cotton field after the cotton destruction deadline or any extension of the destruction deadline, may be subject to a hostable commercial cotton fee.

(b) Grace period. Upon discovery of hostable volunteer or other noncommercial cotton in a commercial cotton field, the department will give notice to the grower or landowner to destroy the hostable volunteer or hostable regrowth cotton within a 7-day grace period after the date notice is given. If weather conditions prevent destruction of the cotton within the 7-day grace period, the grower or landowner may, before the end of the 7-day grace period submit a request for an extension of the grace period.

(c) Fee rates for boll weevil quarantined areas. In a boll weevil quarantined area, as established by §20.11 of this chapter (relating to Quarantined Areas) in conjunction with §§20.12, 20.13 and 20.14 of this chapter (relating to Quarantine Requirements):

(1) For fields containing planted stalks that remain undestroyed, the hostable commercial cotton fee is calculated at:

(A) \$8.00 per acre for each full or partial week through the end of the fifth week after the destruction deadline or any approved extension of the destruction deadline; and

(B) \$12.00 per acre for each full or partial week beginning with the sixth week after the date of the destruction deadline or any approved extension of the destruction deadline.

(2) For fields that contain only hostable volunteer or hostable regrowth cotton, the hostable commercial cotton fee is calculated at:

(A) \$5.00 per acre for each full or partial week through the end of the fifth week after the end of the 7-day grace period or an approved extended period provided for subsection (b) of this section; and

(B) \$7.50 per acre for each full or partial week beginning with the sixth week after the end of the 7-day grace period or an approved extended period provided for in subsection (b) of this section.

(d) Fee rates for boll weevil suppressed, functionally eradicated or eradicated areas. In a boll weevil suppressed, functionally eradicated or eradicated area, as established by §§20.12, 20.13 and 20.14 of this chapter in conjunction with §20.11 of this chapter:

(1) For fields containing planted stalks that remain undestroyed, the hostable commercial cotton fee is calculated at:

(A) \$5.00 per acre for each full or partial week through the end of the fifth week after the destruction deadline or any approved extension of the destruction deadline; and

(B) \$7.50 per acre for each full or partial week beginning with the sixth week after the date of the destruction deadline or any approved extension of the destruction deadline.

(2) For fields that contain only hostable volunteer or hostable regrowth cotton, the hostable commercial cotton fee is calculated at:

(A) \$5.00 per acre for each full or partial week through the end of the fifth week after the end of the 7-day grace period or an approved extended period provided for in subsection (b) of this section; and

(B) \$7.50 per acre for each full or partial week beginning with the sixth week after the end of the 7-day grace period or an approved extended period provided for in subsection (b) of this section.

(e) Payment of fees. A hostable commercial cotton fee must be received on or before the 45th day after the date the department gives notice to the cotton grower that the fee is due.

(1) Notice is given under this section on the date:

(A) the notice is personally delivered to the person owing the fee or to any agent, of the person owing the fee, who typically receives business correspondence on behalf of that person; or

(B) if mailed, three days after the date the notice is mailed to the person owing the fee or to any agent, of the person owing the fee, who typically receives business correspondence on behalf of that person.

(2) An administrative penalty for each day payment is delinquent may be assessed against a person who fails to pay the fee required by this section in a timely manner.

(3) In addition to administrative penalties, the department is also authorized to destroy, or contract for the destruction

of, any hostable cotton for which the applicable fee has not been paid. If it becomes necessary for the department to contract with someone to destroy the hostable cotton, the cotton grower must reimburse the department for 150% of the actual costs required for destruction. If a cotton grower does not reimburse the department within 30 days after the date the department or contractor completes destruction or the date the department issues a bill requesting payment, whichever is later, the department may place a lien against the property on which the hostable cotton was located.

Source Note: The provisions of this §20.30 adopted to be effective September 1, 2009, 34 TexReg 5897; amended to be effective February 25, 2014, 39 TexReg 1119

§20.31 Hostable Volunteer and Other Noncommercial Cotton in Locations Other Than Commercial Cotton Fields(a) Cotton grown under a noncommercial cotton permit issued by the department under §3.53 of this title (relating to Prohibition of Planting of Cotton) is exempt from the requirements of this section.

(b) Except as provided by subsection (a) of this section, volunteer and other noncommercial cotton shall be destroyed by the grower or landowner prior to becoming hostable, if the volunteer or other noncommercial cotton is:

(1) in a crop field or other location that is not a commercial cotton field; and

(2) in a boll weevil quarantined, suppressed or functionally eradicated area, as established by §20.11, §20.12 and §20.13 of this chapter in conjunction with §20.14 of this chapter (relating to Quarantine Requirements).

(c) Upon discovery of hostable volunteer or other hostable noncommercial cotton, the department will give notice to the grower or landowner, or both the grower and the landowner, to destroy the hostable volunteer or other hostable noncommercial cotton within 14 days after the date notice is given. If weather conditions prevent destruction of the cotton within the 14-day grace period, the grower or landowner may, before the end of the 14-day grace period submit a request for an extension of the grace period.

(1) Crop fields. If hostable volunteer or other hostable noncommercial cotton located in a crop field, that is not a commercial cotton field, is not destroyed on or before the 14th day after notice is given, the department or a person designated by the department may monitor and treat the cotton for boll weevil. The monitoring and treatments will continue until the cotton becomes non-hostable.

(2) Other locations. If hostable volunteer or other hostable noncommercial cotton not located in a crop field or commercial cotton field is not destroyed on or before the 14th day after notice is given, the department may declare the location a public nuisance, destroy the cotton,

and charge the landowner 150 percent of the actual destruction costs.

to be effective June 14, 2012, 37 TexReg 4184; amended to be effective January 3, 2016, 40 TexReg 9625

(d) Hostable Noncommercial Cotton Fee. If hostable volunteer or other hostable noncommercial cotton in a crop field, or other location that is not a commercial cotton field, is not destroyed on or before the 14th day after notice is given or the expiration of an approved extended period, the grower or landowner shall pay a hostable noncommercial cotton fee of \$5.00 per acre for each full or partial week until the cotton is destroyed.

(1) If hostable volunteer or other hostable noncommercial cotton is present in less than fifty percent of the crop field or other location that is not a commercial cotton field, then the fee will be based on one-half of the total acreage of the crop field or other location that is not a commercial cotton field.

(2) Prior to the established destruction deadline listed in §20.22 of this title (relating to Stalk Destruction Requirements) for the applicable Pest Management Zone, the total fee per acre shall not exceed the per acre assessment for boll weevil eradication that would be applicable if the location were a commercial cotton field. If hostable noncommercial cotton is present after the date of the destruction deadline or any approved extension of the destruction deadline, the grower or landowner shall pay a hostable noncommercial cotton fee of \$5.00 per acre for each full or partial week that shall be in addition to any fees accrued prior to the destruction deadline.

(3) Fees will cease to accrue on the earlier of:

(A) the date a department inspector finds all hostable volunteer or other hostable noncommercial cotton has been destroyed; or

(B) the date the grower or landowner notifies the department that all hostable volunteer or other hostable noncommercial cotton has been destroyed, provided that all hostable volunteer or other hostable noncommercial cotton is found to be destroyed during the first department inspection of the crop field or other location that is not a cotton field after the grower or landowner notifies the department.

(e) Notice is given under this section on the date:

(1) the notice is personally delivered to the grower or landowner or to any agent, of the grower or landowner, who typically receives business correspondence on behalf of the grower or landowner; or

(2) if mailed, three days after the date the notice is mailed to the grower or landowner or to any agent, of the grower or landowner, who typically receives business correspondence on behalf of the grower or landowner.

Source Note: The provisions of this §20.31 adopted to be effective September 1, 2009, 34 TexReg 5897; amended to be effective November 1, 2011, 36 TexReg 7313; amended

Figure: 4 TAC §20.22(a)(2)(B)(ii)

Pest Mgmt Zone	Earliest Planting Date	Destruction Deadline	End Date for Destruction Requirements
1	February 1	September 1	March 1
2 - Area 1	February 1	September 1	March 1
2 - Area 2	February 1	September 1	March 1
2 - Area 3	February 1	September 15	March 1
2 - Area 4	February 1	October 1	March 1
3	February 1	October 31	Emergence of new crop
4	February 1	October 10	Emergence of new crop
6	February 1	October 31	Emergence of new crop
7 - Area 1	February 1	November 30	Emergence of new crop
7 - Area 2	February 1	November 30	Emergence of new crop
8 - Area 1	February 1	October 31	Emergence of new crop
8 - Area 2	February 1	November 20	Emergence of new crop
9	April 1	March 1	May 1
10	March 25	February 1	March 25