

**Texas Department of Agriculture**  
**Agriculture and Consumer Protection Division**  
**Inspection and Enforcement Strategic Plan (FINAL)**  
**Fiscal Year 2024**

**Executive Summary**

The Agricultural and Consumer Protection Division (ACP) of the Texas Department of Agriculture (TDA or the Department) licenses a wide range of stakeholders – pest control companies, businesses that sell pesticides, seed sellers, weight scales, and agricultural workers, to name a few. ACP programs fall into four broad areas: Consumer Service Protection, Consumer Product Protection, Agricultural Commodities, and Environmental and Biosecurity.

With licensing comes the responsibility to verify compliance with applicable laws and regulations. ACP has five regional offices throughout the state, as well as its main headquarters in Austin. By having inspectors at regional offices, ACP can effectively verify compliance throughout the state.

On June 16, 2021, Governor Greg Abbot signed Senate Bill (SB) 703. This statute added a requirement for TDA to develop and publish annual plans for how it will use its inspection and enforcement resources to ensure public safety and protect agriculture and consumers in Texas. SB 703 requires publication of an annual (State of Texas fiscal year) inspection and enforcement strategy plan with the projected inspection schedule for the next fiscal year and the reporting of enforcement outcomes over time. The legislation was codified as Texas Agriculture Code, §12A.004.

ACP's annual inspection schedules are determined on a program-by-program basis. Each program's proposed annual inspection plan is influenced by federal and state requirements (statutory- or regulation-based inspections), risk-based assessments of the affected sources, as well as projected 'unscheduled' inspections performed in response to complaints during the year. As a division of the Department, ACP plans to inspect over 40,000 facilities, verify that 80,000 acres meet standards for certification, and analyze 4,500 seed samples in Fiscal Year 2024. In addition, TDA anticipates that 185,000 materials shipments will be inspected at roadside stations.

Each program has a different enforcement matrix and different federal and state laws and regulations that govern the affected source, so there is no single inspection strategy that would be effective for all programs. ACP's inspection goals for State of Texas Fiscal Year (FY) 2024 are organized into individual plans for each program. The plans also include enforcement results from FY 2022, the latest year for which there is complete data. The plans fulfill the requirements of Texas Agriculture Code §12A.004 as it applies to ACP.

The draft plan was published on TDA's website, [www.texasagriculture.gov](http://www.texasagriculture.gov), on July 17, 2023. Publishing the plan opened a 30-day public comment period. The comments received and ACP's responses are in Appendix J of this final report.

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TDA's consumer protection efforts promote success, unity, and prosperity for the people of Texas and provide for a fair and equitable marketplace for Texas businesses. TDA has strong consumer protection programs, which include inspecting grocery store scales for accuracy, ensuring eggs meet specific quality standards, verifying that nursery and floral products sold in Texas are free from harmful pests and diseases, and mandating that pest control applications are performed safely by qualified individuals. ACP also works hard to ensure that planting seed sold in Texas is truthfully labeled and meets the highest standards.

TDA also works to provide agriculture producers with the resources and support they need. ACP is responsible for licensing and training pesticide applicators, overseeing worker protection, registering pesticides for sale in the state and working to minimize unnecessary impacts to agriculture while enhancing protection of endangered and threatened species as mandated by the federal law.

The Structural Pest Control Service (SPCS or the Service) licenses applicators who apply pesticides in and around structures for compensation. The mission of the Service is to enhance the educational and professional standards of license holders and ensure the health, safety, and welfare of the public.

**I. About the Agriculture and Consumer Protection Division (ACP)**

The ACP Division encompasses several programs grouped into four broad areas of service, with each program targeting a specific sector of the agricultural and consumer markets. The four areas are Consumer Service Protection, Agricultural Commodity, Environment and Biosecurity, and Consumer Product Protection. Additionally, the division operates three laboratories that support the mission of ACP.

***Consumer Service Protection Programs***

**Structural Pest Control Service (SPCS)**

TDA's Structural Pest Control Service licenses and regulates pest management professionals who apply pesticides in and around structures for compensation. SPCS provides exceptional customer service to the public and the industry, enhances the educational and professional standards of license holders and ensures the health, safety, and welfare of the public. Pest control applicators must go through proper training, pass relevant subject exams, and undergo criminal background checks prior to being issued a license.

## Pesticide Product Registration Program (Product Registration)

As the lead agency in Texas for regulating pesticides, TDA is responsible for registering pesticides before they are distributed and/or sold in Texas.

The Pesticide Product Registration Program reviews applications for pesticide product registration approval; submits special product registrations to EPA (Section 24(c) Special Local Need (SLN) and Section 18 Emergency Exemptions); and approves Section 5 Experimental Use Permits (EUP) and 2(ee) recommendations.

There are no field inspection requirements associated with the Pesticide Product Registration Program. Product Registration does support field inspections, however. When inspectors find unregistered pesticides in the channels of trade, the inspector emails or calls the Product Registration team to verify whether the product is registered in Texas. Product Registration specialists then reach out to the manufacturer or distributor. The purpose of the communication is to let the manufacturer or distributor know that their unregistered product is in the Texas channels of trade. The company is required to either register the product with TDA or work with the seller to remove or dispose of the product.

## ***Agricultural Commodity Programs***

### Organic Certification Program

The program's purpose is to simultaneously develop Texas' agricultural economy and to provide consumers with the most abundant and diverse food and fiber supply possible. The program helps Texas farmers diversify their operations and capture a larger share of a growing premium market by ensuring the authenticity of the products making the organic claim.

As a Certifying Agent as accredited by the United States Department of Agriculture National Organic Program (NOP), the TDA Organic Certification Program has the authority to certify organic producers as well as processors, distributors, and retailers of organic agricultural products. To be certified, an operation must comply with organic production and handling regulations established by NOP.

### Seed Quality Programs

The Seed Quality Programs help ensure that anyone from a backyard gardener to a multi-acre farmer receives the highest quality of seed available. The Seed Quality Programs are based at the Department's Seed Laboratory. There are three sub-programs within Seed Quality: Seed Certification, Seed Law, and Seed Arbitration.

The mission of the *Seed Certification Program* is to create and make available a source of seeds and vegetative propagating materials of crops and plants grown,

conditioned, certified, and distributed to insure genetic purity and identity in relation to TDA standards.

The Seed Certification Program has six tasks that support the program's mission:

- Licenses Certified Growers,
- Registers Plant Breeders,
- Conducts field inspections on certified seed production,
- Inspects conditioning plants,
- Monitors variety purity by testing certified hybrid production samples through grow-outs in Puerto Rico and Costa Rica, and
- Prints and issues certification labels.

The Seed Law Program monitors labeling of seed packages to help ensure that consumers receive the quality and type of seed they pay for, that the seed will germinate or sprout as stated on the label, and that the seed will produce the kind of plants represented. To support the Seed Law Program, the program performs the following tasks:

- Performs seed sampling regulatory activities,
- Performs laboratory analysis and field grow-out testing on seed samples,
- Issues Vegetable Seed License,
- Issues Permit numbers for reporting seed sales under the Reporting System,
- Prints and issues Texas Tested Seed Fee Labels,
- Investigates seed complaints, and
- Ensures seed is not contaminated with noxious weed seed.

Seed Arbitration is a hearing before the Seed Arbitration Board to resolve a dispute between the purchaser of the seed and the labeler/seller of seed about the failure of the seed to produce or perform as represented. The State Seed and Plant Board acts as the Seed Arbitration Board for complaints filed for arbitration. TDA specialists conduct the preliminary investigation then refer all the documentation and findings to the Seed Arbitration Board. After holding a hearing, the Seed Arbitration Board reports its findings and recommendations to the TDA Commissioner. TDA then sends the final report to all parties in the complaint.

#### Grain Warehouse Program

The purpose of the Grain Warehouse Program is to protect producers who deposit agriculture commodities in public storage and ensure the financial integrity of the industry. Warehouse regulation is intended to ensure that

Warehouse Operators maintain the quantity and quality of grain stored for farmers and other depositors.

The inspection program administers and enforces laws relating to grain storage and requires that any entity which stores grain for the public have either a TDA- or a USDA-issued license. This allows TDA to ensure that Texas producers have a safe and solvent warehouse for their commodities.

#### Handling and Marketing of Perishable Commodities (HMPC) Program

The mission of the HMPC Program is to protect and assist producers or produce dealers who do not receive payment for produce sold or handled in Texas. HMPC inspections and investigations are almost always prompted by an official claim filed by a producer. In uncommon occurrences, a TDA field office executive or a field inspector may come across information which will lead to an HMPC inspection outside of the regular claim protocol.

#### Hemp Program

The 2018 (federal) Farm Bill legalized the commercial production of hemp and authorized states to submit state plans to administer hemp programs. Here in Texas, House Bill 1325 was signed into law in June 2019 and authorizes the production, manufacture, retail sale, and inspection of industrial hemp crops and products. This also includes products for consumable hemp products which contain cannabidiol (CBD), as well as other edible parts of the hemp plant. TDA opened the hemp licensing and permit application process online on March 16, 2020. Since this program is new, there have been no inspections associated with the Hemp Program.

### ***Environmental and Biosecurity Programs***

#### Agricultural Pesticide Use and Applications Program

TDA is designated as the state's lead agency in the regulation of pesticide use and application. TDA is responsible for licensing and training pesticide applicators, overseeing worker protection, and working to minimize unnecessary impacts to agriculture while enhancing protection of endangered and threatened species.

#### Plant Quality Programs

TDA protects both consumers and the plant industry by regulating agricultural products through nursery/floral licensing, phytosanitary inspection of plant products, quarantine enforcement and pest monitoring. Our Plant Quality Programs facilitate plant commerce through phytosanitary certification of commodities to other states and countries in cooperation with their agricultural agencies, the United States Department of Agriculture (USDA), the USDA Animal and Plant Health Inspection Service and USDA Plant Protection and Quarantine.

Another key part of protecting Texas agriculture is the operation of inspection stations on the major roadways into Texas. At these road stations, TDA inspectors physically examine inbound agricultural products for invasive pests or diseases and check to ensure all state phytosanitary laws are met. This helps keep invasive pests and plant-borne diseases out of Texas.

### ***Consumer Product Protection Programs***

#### Weights and Measures Program

TDA's field staff inspect a wide variety of measuring devices to protect consumers from overcharges. The purpose of the Weights and Measures program is to protect consumers and businesses by ensuring that equity prevails in all commercial transactions involving determinations of quantity.

TDA inspects weighing and measuring devices to ensure performance within acceptable tolerances and TDA inspects packaging to enforce net content and labeling regulations. The agency's Weights and Measures program provides standards for private industry which discourage unfair and dishonest commerce. TDA also adopts rules and regulations to help eliminate fraud and misrepresentation in commercial transactions.

#### Egg Quality Program

The Egg Quality Program enforces standards of egg quality by licensing egg packers, wholesalers, and distributors. Extensive egg training is provided to inspectors to ensure the eggs they inspect meet the grade, size and quality standards set by TDA. To avoid duplication of inspection efforts at retail stores, a memorandum of understanding (MOU) has been signed by both TDA and the Texas Department of State Health Services. The MOU specifies each agency's egg inspection responsibilities.

To improve compliance and oversight, TDA is distributing its inspection efforts over a wider spectrum of egg retail business types (i.e., grocery and convenience stores) to better focus resources toward locations that may have a higher risk of non-compliance. To avoid duplication of inspection efforts at packing facilities, TDA does not inspect eggs at facilities that are under the USDA's egg inspection program.

Continued increase in compliance has been attributed to the use of high-tech equipment by the egg industry. TDA has developed risk-based inspection criteria that will permit the allocation of inspection and maintenance resources to provide a higher level of coverage on the high-risk businesses and an appropriate inspection effort over lower-risk locations.



## **Laboratories**

The Agriculture and Consumer Protection Division also maintains three laboratories to support their mission.

### Seed Lab

All three sub-programs of the Seed Quality Program are run through TDA's Seed Lab, utilizing the Seed Lab's expertise in seed identification and seed grow-outs. The three sub-programs are Seed Certification, Seed Law, and Seed Arbitration.

### Pesticide Lab

The purpose of the Pesticide Lab is to perform analysis of pesticide residues for monitoring and to aid in the agency's prosecution of pesticide law violations. Additionally, the lab analyzes United States Department of Agriculture (USDA) Pesticide Data Program (PDP) samples. The Pesticide Data Program (PDP) is a national pesticide residue database program empowered to collect pesticide residue data on selected food commodities, primarily fruits and vegetables. PDP data are used by the EPA to support its dietary risk assessment and pesticide registration processes, by the Food and Drug Administration to refine sampling for enforcement of tolerances; by the Foreign Agricultural Service, to support export of U.S. commodities in a competitive global market; by the Economic Research Service to evaluate pesticide alternatives; and by the public sector to address food safety issues. The Pesticide Lab does not carry out inspections but serves as a support group to other areas of TDA.

### Metrology Lab

The State Metrology Lab (Giddings Metrology Lab) conducts mass and volumetric calibrations on field test standards used by Licensed Service Companies, TDA inspectors, and other customers that utilize commercial weighing or measuring devices as described in Texas Agriculture Code §13.113. All weights and measures calibrations are documented and traceable to the International System of Units (SI) through the National Institute of Standards and Technology (NIST). The Giddings Metrology Laboratory is recognized by NIST in Mass Echelon III and Volume Echelon Transfer II. The Metrology Lab serves as a support group to the work of the Weights and Measures Program.

## **II. Annual Inspection and Enforcement Strategic Plan (SB 703)**

On June 16, 2021, Governor Greg Abbot signed SB 703. The bill was codified as Texas Agriculture Code, §12A.004. This statute added a requirement for TDA to develop and publish annual plans for how it will use its inspection and enforcement resources to ensure public safety and protect agriculture and consumers in Texas.

Within the inspection and enforcement strategic plans for the coming fiscal year, the statute requires that the division report on the following enforcement activities:

- The number, type, and severity of the violations the Department found to have occurred;
- The number, type, and severity of violations the Department referred for enforcement;
- The number, type, and severity of violations for which the Department imposed a penalty or took other enforcement action;
- The number of major violations for which the Department imposed a penalty or took other enforcement action; and
- The number of repeat major violations, categorized by license type, if applicable.

In summary, Texas Agriculture Code, §12A.004 requires publication of an annual inspection and enforcement strategic plan on a State of Texas fiscal year basis with the projected inspection schedule for the upcoming fiscal year and the reporting of enforcement outcomes for the prior fiscal year.

The draft plan and report were published on TDA's website, [www.texasagriculture.gov](http://www.texasagriculture.gov), on July 17, 2023. Publishing the plan opened a 30-day public comment period. The comments received and ACP's responses are included as Appendix J of this final report.

### **III. Inspection and Enforcement Strategic Plans for Fiscal Year (FY) 2024**

At the beginning of the TDA Commissioner's term, he/she releases the Agency Strategic Plan. The Agency Strategic Plan outlines broad operational goals for the coming term and how the agency will evaluate its performance against the stated goals. The Legislative Budget Board (LBB) works with all divisions in the agency to put specific numbers to the action items (performance measures) listed in the Agency Strategic Plan.

ACP's annual inspection schedules are determined on a program-by-program basis. Each program's proposed annual inspection plan is influenced by federal and state requirements (statutory- or regulation-based inspections), risk-based assessments of the affected sources, as well as projected 'unscheduled' inspections performed in response to complaints during the year.

Each program has a different enforcement matrix and different federal and state laws and regulations that govern the affected source, so there is no single inspection strategy that would be effective for all programs. In addition to any required statutory inspections, each program that issues a license or is regulated by TDA may conduct additional inspections based on a schedule of risk-based criteria. The criteria are listed in Texas Agriculture Code, §12A.003. Some of the listed criteria are whether there has been a prior violation by the person, the inspection history of the person, and any history of complaints involving the person.

In considering inspections to be performed, program management must also consider how to best utilize the resources allocated to the program by the Texas Legislature. For some programs, the best use of TDA resources is to partner with other federal or state agencies. For example, the USDA has inspection programs at egg packing facilities that are as stringent as TDA inspections. To avoid duplication of inspection efforts, TDA does not send inspectors to USDA-inspected packing facilities. This frees up TDA inspectors' time and other budget resources for inspections at facilities that are at higher risk of inspection deficiencies.

Performance measures like the projected number of inspections to be performed are set by the LBB. The LBB issues performance measures for each program in two-year plans. In preparation for the LBB plan, ACP programs review the number of licensees, compliance history for the type of license, and any statutory requirements for the regulated stakeholders. Programs also consider staffing levels and budgets when proposing performance measure numbers to the LBB. The measures are reviewed and approved by ACP management, then forwarded to the LBB. The LBB reviews the proposed performance measures. The LBB may accept, edit, or reject the performance measures for the two-year period. The performance measure levels as approved by the LBB become the strategic plan for each program's deployment of personnel and resources. ACP reports its progress toward the LBB performance measure goals each month. FY 2024 is the first year of the FY 2024-2025 LBB Plan.

The performance measures that are part of TDA's Agency Strategic Plan are largely the same as the information required to comply with Texas Agriculture Code, §12A.004. As required, the Inspection and Enforcement Strategic Plans for each program area have been developed for FY 2024. The plans for each program are attached to this report as individual appendices. Each plan discusses the federal and state regulatory requirements, risk-based assessments, and other inspection items that influence the program's inspection schedule. Each program's plan also includes the enforcement outcomes from FY 2022, the latest full fiscal year.

#### **IV. Summary**

ACP licenses a wide range of stakeholders – pest control companies, businesses that sell pesticides, seed sellers, weight scales, and agricultural workers, to name a few. With licensing comes the responsibility to verify compliance.

ACP's inspection goals for FY 2024 are organized into individual plans for each program. The plans are included as appendices at the end of this narrative. As a division of the Department, ACP plans to inspect over 40,000 facilities, verify that 80,000 acres meet standards for certification, and analyze 4,500 seed samples in Fiscal Year 2024. In addition, TDA anticipates that 185,000 materials shipments will be inspected at roadside stations. The plans also include enforcement results from Fiscal Year 2022, the latest year for which there is complete data.

The plans fulfill the requirements of the Texas Agriculture Code, §12A.004 as it applies to ACP.

## **APPENDICES**

Inspection and Enforcement Strategic Plans for:

- A. Structural Pest Control Service
- B. Organic Certification Program
- C. Seed Quality Programs (Seed Certification, Seed Law, Seed Arbitration)
- D. Grain Warehouse Program
- E. Handling and Marketing of Perishable Commodities (HMPC) Program
- F. Agricultural Pesticide Use and Applications Program
- G. Plant Quality Programs
- H. Weights and Measures Program
- I. Egg Quality Program
- J. Comments and Responses

# **APPENDIX A**

## **Structural Pest Control Service (SPCS) Inspection and Enforcement Strategic Plan FY 2024**

**STRUCTURAL PEST CONTROL SERVICES (SPCS)  
INSPECTION AND ENFORCEMENT STRATEGIC PLAN  
FY 2024**

**A. Inspection Purpose**

TDA's Structural Pest Control Service (SPCS) licenses and regulates pest management professionals who apply pesticides in and around structures and perform pest control services for hire.

The SPCS inspection program administers and enforces the laws and regulations that ensure businesses and individuals are properly licensed, that licensees are properly trained to perform pest control services, and that the individuals and businesses are compliant with the SPCS laws and regulations.

**B. Types of Inspections Performed**

The SPCS program inspects pest control businesses and other entities for compliance with the Structural Pest Control Act. Depending on the type of inspection (inspection reason/visit type), the Inspector will review different records during the inspection. The following discusses the five main inspection reasons/visit types that structural inspectors complete with specific guidance to the type of entities inspected. The five inspection reasons are: Routine, Re-inspection, Complaint, For-Cause and Use Observation.

Routine Inspections

Routine inspections are the most thorough inspections completed by structural inspectors. At a routine inspection, required elements relating to SPCS laws and regulations are reviewed. All noncompliant items found during the inspection are documented on inspection forms. The inspector also provides compliance assistance to the business or entity by explaining how to remedy the non-compliance. Even if the non-compliant item is rectified during the inspection, the fact that there was a non-compliance during the inspection is recorded on the inspection form.

Per Texas Administrative Code, Title 4, Part 1, §7.149, each licensed pest control business shall be inspected at least once in the business's first year of receiving a license and at least every four (4) years thereafter. School districts will be inspected at least once every five (5) years as specified in Texas Administrative Code, Title 4, Part 1, §7.149. The Department may waive these requirements due to Department staff availability, budgetary constraints, inspection trends, or operational efficiencies. Businesses and school districts demonstrating a lack of compliance with Department rules may be inspected more frequently than would otherwise apply. Some of the reasons for more frequent inspections are prior violations, prior inspection results, and prior complaints.

## Re-Inspections

Re-inspections are inspections performed as a follow-up on noncompliance cited in a previous inspection – typically a routine inspection. Only items found noncompliant at the previous inspection are reviewed as well as records completed since last inspection. Any continued noncompliance found is documented on the inspection forms. As with the routine inspection, the inspector provides compliance assistance to explain how to come into compliance with the law, regulation, and/or pesticide label. Non-compliance is noted on the inspection form even if the non-compliance is corrected during the re-inspection.

## Complaint Inspections

Complaint inspections are the result of a complaint being filed with the Department. Complaints are more commonly filed against commercial businesses but will occasionally be filed against noncommercial entities or noncommercial schools.

Upon receipt of a complaint, the inspector will respond immediately by contacting the complainant to gather sufficient preliminary information to determine if an investigation can be conducted and to arrange for an interview and on-site inspection with the complainant. During the interview and on-site inspection the inspector will ask additional questions and review and/or gather any physical evidence. The inspector will also collect relevant information from other sources. The inspector then submits a report to the TDA Enforcement Division. Response time for conducting the interview and inspection depends upon complaint type:

- Human exposure: Within 6 hours after initial notification of a complaint involving alleged human exposure, the complainant will be contacted by the Assistant Regional Director or Regional Director by phone. Within 24 hours, the inspector will contact the complainant in person.
- All other complaints: An inspector will make personal contact with the complainant within 48 hours from the date initially notified of the complaint involving allegations other than human exposure.

## For-Cause Inspections

For-Cause inspections are inspections performed for a reason other than a complaint or re-inspection for previous noncompliance. When the Department has reason to believe there are violations with a particular entity, an inspector may be sent to the entity to perform a For-Cause inspection.

## Use Observations

Use Observations are inspections completed in the field while the inspector is observing pesticide applications or pesticide device use. Use observations do not include observing an inspection for termites or pest presence and can be completed for any account type. Regardless of account type, TDA inspectors are required to enter what they observed.

## **C. Structural Pest Control Business Accounts Inspected**

### Commercial Business

At a commercial business inspection, the inspector is required to review a random sampling of use records from all areas in which the business provides services.

Additionally, the inspector must review:

- invoices, contracts, service agreements,
- license display (business vehicles and premise),
- posting notices (for indoor treatments),
- Consumer Information Sheet,
- pesticide storage and disposal, and
- training records including certificates of completion for continuing education units (CEUs).

If the commercial business provides termite or structural fumigation services, the Inspector must also review:

- termite disclosures,
- Wood Destroying Insect Reports (WDIRs), and
- use record requirements particular to commercial preconstruction termite treatments and structural fumigations.

### Non-Commercial Business/Non-Commercial Political Business

Non-commercial licenses are required when an employee of the state or a political subdivision of the state engages in structural pest control in or around their employers' structures. Non-commercial licenses are also required if you are an employee performing structural pest control on buildings that are an apartment building; day-care center; hospital; nursing home; a hotel, motel, or lodge; a warehouse; a food processing establishment other than a restaurant, retail food, or food service establishment; or a school.

Non-commercial business inspections (including non-commercial political business inspections) will vary depending on whether the entity employs a licensed applicator.

If the entity employs a licensed applicator, then the inspector is required to review a random sampling of use records from all areas in which the business provides services. Additionally, the inspector must review posting notices (for indoor treatments), Consumer Information Sheet, pesticide storage and disposal, and training records including certificates of completion for continuing education units (CEUs) for their compliance with regulation. If the entity performs termite or structural fumigation work, the inspector must review termite disclosures, WDIRs and use record requirements particular to structural fumigations and commercial preconstruction termite treatments. If the entity does not employ a licensed applicator, then the inspector will review posting notices, ensure the entity has a Consumer Information Sheet available upon request (if indoor pesticide applications



are made), pesticide storage and pesticide disposal (if applicable). The inspector will also verify the entity is using a licensed applicator.

### School Districts

At a non-commercial school routine inspection, the inspector will:

- ensure the district has copies of the School IPM policy,
- confirm the district has an IPM Coordinator,
- verify the IPM Coordinator’s training,
- confirm the district has specific thresholds,
- confirm the district has a record-keeping system,
- confirm the district has a Consumer Information Sheet to make available,
- ensure the district is using appropriately licensed applicators,
- review a random sample of use records from the district’s applicators and/or contract vendor,
- review any yellow or red category approval forms,
- review posting notices for both indoor and outdoor applications, and
- check pesticide storage and disposal.

If the district employs licensed structural applicators, the inspector will randomly review the structural applicator’s use records for compliance.

If the district employs licensed agricultural (ag) applicators or contracts commercial structural or ag applicators (not employees of the district, but of a commercial business) the Inspector will only review use records to determine if yellow or red category products were used and to confirm whether the district has a preferential use of lower risk pesticides and non-chemical pest management strategies.

## **D. SPCS Inspection Strategic Plan for FY 2024**

Table 1 represents the SPCS’s Inspection Strategic Plan for FY 2024.

As discussed in Section III of the main report, performance measures used by this program are set by the Legislative Budget Board (LBB) in the agency’s strategic plan

As of May 2023, there are 3,912 commercial business licenses, and 1,461 licenses for non-commercial and non-commercial political businesses and school district licenses. Based on these numbers and the inspection frequency outlined above, SPCS inspectors would be obligated to perform 1,289 inspections annually. The LBB has increased SPCS inspections from 1,880 in the FY 2022-23 Plan to 1,940 in the FY 2024-25 plan. ACP staff will use the LBB performance measures as the inspection goals to be more protective of Texas consumers.

The following table summarizes only those performance measures for SPCS that involve inspections to be performed (inspection goals). When reporting inspection goals, the table divides the inspections by business type (commercial, non-commercial/non-commercial political, and school districts).

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b> (Routine, Re-Inspection, Complaint, and For-Cause)	<b>Inspection Goals</b>
Commercial	1,065
Non-Commercial/Non-Commercial Political	460
School District	225
Use Observation	190
<b>Total Inspections Planned for FY 2024</b>	<b>1,940</b>

**E. SPCS Violations and Enforcement in FY 2022**

Inspectors send case reports for inspection-based incidents and complaint incidents to program specialists for review. A program specialist reviews the submitted report for possible violations and if found, then submits the case file to Enforcement for further processing. Once Enforcement receives the case, TDA’s legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two sections. The first section shows how many inspections were performed by business type in FY 2022 (Table 2 below).

**Table 2 – Inspections FY 2022**

<b>Inspection Type</b> (Routine, Re-Inspection, Complaint, and For-Cause)	<b>Inspections Conducted</b>
Commercial	984
Non-Commercial/Non-Commercial Political	445
School District	265
Use Observation	192
<b>Total Inspections Conducted in FY 2022</b>	<b>1,886</b>

Enforcement actions taken are detailed in the next section. The enforcement data lists the number of Notice of Violations (NOVs) and warnings issued and is further divided into each type of violation. At the end of the list is the dollar amount of penalties assessed and the amount collected. For this report, a major violation is operating without a business license. There were 76 major violations, for which Enforcement issued one warning letter and 75 NOVs. The major violations are shown in bold in the following table.

## Enforcement Actions in FY22

### SPCS NOTICE OF VIOLATIONS AND WARNINGS FY 2022

Major violations shown in bold.

<b>NOVs</b>	<b>265</b>
Failure to comply with advertising requirements	15
Failure to comply with IPM requirements	8
Failure to comply w/training or supervision requirements	22
Failure to leave durable sticker at property	1
Failure to maintain required insurance	7
Failure to properly complete a WDIR	4
Failure to provide notice of employee separation	1
Failure to timely register employees	32
Improper deviation from treatment disclosure	1
Incorrect pesticide use records	6
<b>Operating without a business license</b>	<b>75</b>
Working out of category	1
Working without an apprentice license	3
Other violation:	89
<b>Warnings</b>	<b>37</b>
Failure to comply with IPM requirements	10
Failure to properly complete a WDIR	1
Incomplete pesticide use records	11
<b>Operating without a business license</b>	<b>1</b>
Other violation:	14
<b>TOTAL NOVs AND Warnings IN FY-2022</b>	<b>302</b>
Penalties Assessed	\$150,550
Penalties Collected	\$104,300

# **APPENDIX B**

## **Organic Certification Inspection and Enforcement Strategic Plan FY 2024**

**ORGANIC CERTIFICATION**  
**INSPECTION AND ENFORCEMENT STRATEGIC PLAN**  
**FY 2024**

**A. Inspection Purpose**

As an accredited Certifying Agent by the United States Department of Agriculture (USDA) National Organic Program (NOP), the TDA Organic Certification Program has the authority to certify organic producers as well as processors, distributors, and retailers of organic agricultural products. To be certified, an operation must comply with organic production and handling regulations established by the NOP. See 7 Code of Federal Regulations (CFR) §§205 *et seq.*, as well as the NOP Handbook, for program specifics.

Per NOP 2601 (The Organic Certification Process), certifiers shall inspect each operation annually to determine whether its certification should continue. This means that every operation certified by TDA is inspected annually.

In addition to the annual routine inspection, CFR Title 7, §205.403(b)(1) (Unannounced Inspections) states that certifying agents must conduct unannounced inspections for 5% of their total certified operations per year. Unannounced inspections carry selection criteria including previous noncompliance issues, complaints, organic and non-organic production or handling, especially of visually indistinguishable varieties, risk of contamination from adjoining land use or commingling, or contamination during handling, and the complexity of operation. At the beginning of each calendar year (January), TDA uses these criteria to select operations for unannounced inspections.

**B. Types of Inspections Performed**

There are four types of inspections that an organic inspector may be assigned.

New Inspection (Initial Inspection)

A new inspection is an inspection conducted at an operation that is seeking initial organic certification. The inspector must conduct a complete inspection of the operation seeking certification as required in 7 CFR §205.403(a)(1).

Routine Inspection

A routine inspection is the “annual inspection” conducted at a currently certified operation, as required in 7 CFR §205.406(b) so that the operation can continue to be certified. A certifying agent (in this case, TDA) must conduct an on-site inspection at least once per calendar year.

Re-inspection

There are three types of re-inspections – noncompliance correction, harvest inspection, and second attempt.

- a. *Noncompliance Correction:* A noncompliance re-inspection is initiated by Program to verify that the operator has corrected previously identified areas of noncompliance.
- b. *Harvest Inspection:* A harvest inspection is an inspection initiated by Program or requested by the crop producer for the purpose of observing harvest activities. Inspectors collect one or more pesticide residue samples of harvested product prior to the harvested product leaving the crop producer’s operation.
- c. *Second Attempt:* A second attempt inspection is an inspection that is conducted after an inspection was previously attempted but could not be completed.

Investigative Inspection

Investigative inspections are conducted to determine if an operation is non-compliant and whether that noncompliance is a willful violation of one or more NOP Regulations.

**C. Organic Certification Inspections Strategic Plan for FY 2024**

Table 1 represents the Organic Certification Program’s Inspection Strategic Plan for FY 2024. As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency’s strategic plan. The following summarizes only those performance measures for the Organic Certification Program that involve inspections to be performed.

There are currently 172 operations that have active organic certifications. As required by the USDA NOP, these facilities must be inspected each year. The NOP requires an additional 5% unannounced inspections, equivalent to nine inspections. On average, the inspectors perform four complaints/re-inspections per year. LBB has proposed 231 inspections for organic producers, processors, distributors, and retailers in recognition of the larger organics market sector, so the program has adjusted its FY 2024 inspection goal accordingly.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
On-site Inspections and re-inspections of organic producers, processors, distributors, and retailers (announced and unannounced)	231
Complaints/Re-inspections	4
<b>Total Planned Inspections FY 2024</b>	<b>235</b>

#### D. Organic Certification Violations and Enforcement in FY 2022

Inspection observations are reviewed, and, if non-compliances (violations) are found, then program determines the steps necessary for the operation to come into compliance with applicable laws and regulations (noncompliance resolution). This contrasts with other ACP programs where Enforcement (TDA's legal staff) reviews the violations found during inspections to determine the appropriate resolution.

Table 2 summarizes the inspections and resolutions for FY 2022. NOP defines each individual violation as either major or minor, however, resolution of major violations would not (necessarily) trigger the potential to revoke the operator's organics certification. Instead of using the NOP definition of 'major violation', only those violations that put the operator's organic certification in jeopardy will be counted as 'major violations' for this report.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Conducted</b>	<b>Non-Compliances Found</b>	<b>Revocation Non-Compliances Found</b>
On-site inspections and re-inspections of organic producers, processors, distributors, and retailers	187	14	0
<b>Totals</b>	<b>187</b>	<b>14</b>	<b>0</b>

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX C**

## **Seed Certification and Seed Law Inspection and Enforcement Strategic Plans FY 2024**



**SEED CERTIFICATION AND SEED LAW**  
**INSPECTION AND ENFORCEMENT STRATEGIC PLANS**  
**FY 2024**

**A. Inspection Purpose**

The Seed Certification Program licenses certified growers, registers plant breeders, conducts field inspections on certified seed production, inspects conditioning plants, and monitors variety purity. Texas Certified Seed Growers choosing to participate in the Seed Certification Program must have their fields inspected prior to harvest. The growers are required to submit applications to TDA requesting field inspections.

The TDA Seed Law Program monitors the labeling of agricultural seed and vegetable seed sold in the State of Texas. The purpose is to verify that the seed packages meet the labeling requirements of the Texas Seed Law and are labeled truthfully.

Seed Arbitration is a hearing before the Seed Arbitration Board between the purchaser and the labeler or seller of seed sold in Texas regarding the failure of seed to produce or perform as represented by the warranty or by the label, or because of negligence.

**B. Inspections Performed**

Seed Certification Inspection

For seed certification, the number of acres inspected each year is determined by the number of field inspection requests received. TDA inspects 100% of the fields requested by Texas Certified Seed Growers. The purpose of this inspection is to make sure the field passes seed certification standards. It is a pass/fail inspection. TDA does not assess penalties or other enforcement actions against a seed grower for a field that fails its certification inspection. Certified seed cannot be produced from a field that has not met the standards for seed certification, therefore the consequences of a failed field inspection are not penalties issued by TDA, but economic losses to the seed grower. Certified seed has a higher market value than uncertified seed.

Seed Law Inspection

TDA Inspectors randomly select seed companies and seed distributors located in the inspectors' work areas from whom to draw seed samples. Seed Analysts test the submitted seed samples to verify seed kind, noxious weed seed content, and germination percentage. Program Specialists compare the findings to the seed labeling to verify that the packages are truthfully labeled.

### Seed Arbitration

This program provides dispute resolution, weighing the evidence provided by both sides of the dispute. As such, no inspections specific to Seed Arbitration are associated with this program.

### **C. Seed Certification and Seed Law Inspections Strategic Plan for FY 2024**

As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency’s strategic plan. The following summarizes only those performance measures for the Seed Certification Program and Seed Law Program that involve inspections to be performed.

Unlike other programs, the Seed Certification Program does not have a list of facilities it must inspect. Instead, the program receives requests from individual certified seed growers, so the number of acres inspected can vary from year to year. TDA inspectors examine 100% of the fields requested by the certified seed growers, regardless of the LBB performance target. The LBB has estimated that seed growers will request inspections for 80,000 acres in any given year, a number reflective of current operations.

The Seed Law Program monitors labeling of seed packages to help ensure that consumers receive the quality and type of seed they pay for, that the seed will germinate or sprout as stated on the label, and that the seed will produce the kind of plants represented.

Table 1 represents the FY 2024 Inspection Strategic Plans for the Seed Certification Program and the Seed Law Program.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Total Planned Seed Certification Inspections	80,000 acres
Total Planned Seed Law Inspections	4,500 samples

### **D. Seed Certification and Seed Law Violations and Enforcement in FY 2022**

For seed certification, inspections determine if a field will pass or fail the seed certification standards. It is not a violation of the seed certification standards if a field fails, thus no violations are issued by program and no cases are sent to Enforcement.

Seed Law Inspectors submit seed samples to the program for testing and review. A program specialist reviews the labeling of the seed for possible violations and if found, then submits the inspection reports and samples to Enforcement for further review. Once Enforcement receives the case, TDA’s legal staff work on the case

until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely inspections, identification of violations, and submission of inspection reports and samples to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA’s Legal Services Division.

Table 2 summarizes the action items that take place at the program level. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement.

For seed certification, inspections determine if a field does or does not meet the seed certification standards. It is not a violation of the seed certification standards if a field fails, thus no violations are issued by the program. The table columns listed as ‘Violations Found’, ‘Samples Referred to Enforcement’ and ‘Equivalent Cases Referred to Enforcement’ are listed as ‘not applicable’ in Table 2.

The Seed Law Program is a quality program, rather than a licensing program. The program’s purpose is to determine the quality of seed in the Texas channels of trade through testing. Testing can identify multiple ways that the seed and/or labeling do not meet standards, so there can be more than one violation associated with a single seed sample (number of enforcement cases is greater than the number of seed samples). Conversely, multiple samples can have the same violation, meaning that a single Enforcement case can be made up of multiple samples (number of enforcement cases is less than the number of seed samples). For the Seed Law program taken as a whole, the number of Enforcement cases has always been less than the number of samples.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations Found</b>	<b>Samples Referred to Enforcement</b>	<b>Equivalent Cases Referred to Enforcement</b>
Seed Certification Inspections	91,784 acres	Not applicable	Not applicable	Not applicable
Seed Law Inspections	4,604 samples	895	358	77

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022, which may or may not be the fiscal year when the violation was uncovered by inspectors.

Since there are no ‘violations’ associated with Seed Certification, there are no Enforcement outcomes associated with this program, therefore, the Seed Certification Program is not listed in Table 3.

For Seed Law, Table 3 displays the data on a number-of-cases basis and on a number-of-samples basis. As noted in the previous section, the number of cases is less than the number of samples with violations.

The Seed Manual and Seed Penalty Matrix define the severity of the violations. The manual and penalty matrix do not use the word “major.” The most severe rating is “serious.” For this report, a major violation in the Seed Law program is any violation listed as a serious violation in the Seed Manual and the Seed Penalty Matrix. In Table 3, the number of cases/samples discharged with major (serious) violations is a subset of the total number of cases/samples discharged.

**Table 3 – Enforcement Actions FY 2022**

<b>Inspection Type</b>	<b>Type</b>	<b>Total Discharged</b>	<b>Total Discharged - Major (Serious) Violations</b>
Seed Law	Case Basis	145	9
Seed Law	Sample Basis	324	13

There were no cases/samples discharged in FY 2022 were violators with repeat major (serious) violations.

# **APPENDIX D**

## **Grain Warehouse Inspection and Enforcement Strategic Plan FY 2024**

**GRAIN WAREHOUSE**  
**INSPECTION AND ENFORCEMENT STRATEGIC PLAN**  
**FY 2024**

**A. Inspection Purpose**

The Grain Warehouse Program administers and enforces laws relating to grain storage and requires that any entity which stores grain for the public must have either a TDA- or a USDA-issued license. This allows TDA to ensure that Texas producers have a safe, solvent warehouse in which to store their commodities.

**B. Types of Inspections Performed**

Annual Inspections

All TDA-licensed Grain Warehouses are inspected each year. All license holders pay a user fee to TDA to perform the required annual inspection with the fee being based on the storage capacity of the facilities.

Annual Inspections with on-site financial audit

In addition to the annual inspection, all TDA-licensed Grain Warehouses are required to submit an audited financial statement each year. The statement is then reviewed by a TDA financial examiner. Using the information obtained from the financial statement, a risk-based rating formula is used to determine whether the facility is also required to undergo an on-site financial audit as part of the facility's required annual inspection.

Re-Inspections

A re-inspection or a risk assessment inspection targets grain warehouses where trends of noncompliance are established. Depending on the trend of noncompliance a partial or complete routine inspection may be conducted. Re-inspections focus on issues where bookkeeping or management practices have been corrected and need to be reviewed/verified. A warehouse manager may request a re-inspection if the warehouse manager does not agree with the findings or the initial measurement.

Increase/Decrease Capacity Verification Inspection

If the owner/operator of the grain warehouse wants to increase or decrease the licensed storage capacity of the warehouse, the owner must submit a completed Capacity Change Inspection request form and undergo an inspection to confirm the capacity change. An inspection fee must be paid before the inspection.

Non-Licensed Grain Warehouse Inspection

As staffing and other resources allow, each field inspector performs at least one inspection of a non-licensed facility each fiscal year.

### Complaint Inspection

The program occasionally receives a complaint from outside the agency or an inspection may be requested by the program.

### **C. Grain Warehouse Inspections Strategic Plan for FY 2024**

As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency's strategic plan. The following summarizes only those performance measures for the Grain Warehouse Program that involve inspections to be performed. The performance measure for the Grain Warehouse Program lumps all inspections together as a single measure. The LBB performance measure was based on inspecting each grain warehouse annually. Since the establishment of the LBB's performance target, the sector has experienced a steady downward trend of TDA-licensed grain warehouses due to reduced crop yields related to weather events, industry consolidations, and closures of smaller operations due to the economics of scale. In addition, some licensees have opted not to renew their TDA license because USDA-issued (federal) licenses have lower fees. There are currently 113 grain warehouses licensed with TDA. The inspection goal in Table 1 below reflects the actual number of facilities, rather than the LBB performance measure for this license type.

Table 1 represents the Grain Warehouse Program's Inspection Strategic Plan for FY 2024. Since the number of complaints received or the number of re-inspections needed cannot be predicted in advance of the fiscal year, the planned re-inspections and the planned complaints are listed as 'As needed.'

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Grain Warehouse Inspections	113
Re-Inspections	As needed
Field Audits	37
Complaints	As needed
<b>Total Planned Inspections FY 2024</b>	<b>150</b>

### **D. Grain Warehouse Violations and Enforcement in FY 2022**

Inspectors send case reports for inspection-based incidents and complaint incidents to program specialists for review. A program specialist reviews the report for possible violations and if found, then submits the case file to Enforcement for further processing. Once Enforcement receives the case, TDA's legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely inspections, identification of violations, and submitting cases to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA’s Legal Services Division.

Table 2 summarizes the action items that take place at the program level. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations Found</b>	<b>Cases Referred to Enforcement</b>
Grain Warehouse Inspections, Re-Inspections, Audits, and Complaints	133	16	6

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022. The rightmost column is the count of cases where the violation was a major violation. This column is a subset of the total cases discharged for the fiscal year. For this report, a major violation is one that has the inspection result ‘Non-Compliant – Refer to Enforcement.’

**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Total Cases Discharged</b>	<b>Cases Discharged – Major Violations</b>
Grain Warehouse Inspections, Re-Inspections, Audits, and Complaints	1	0

There were no cases discharged in FY 2022 that were licensees with repeat major violations.



# **APPENDIX E**

## **Handling and Marketing of Perishable Commodities (HMPC) Inspection and Enforcement Strategic Plan**

**FY 2024**

**HANDLING AND MARKETING OF PERISHABLE COMMODITIES (HMPC)  
INSPECTION AND ENFORCEMENT STRATEGIC PLAN  
FY 2024**

**A. Inspection Purpose**

The mission of the Handling and Marketing of Perishable Commodities (HMPC) Program is to protect and assist producers or produce dealers who do not receive payment for produce sold or handled in Texas.

**B. Types of Inspections Performed**

HMPC inspections and investigations are almost always prompted by an official claim filed by a producer. In uncommon occurrences, a TDA field office executive or a field inspector may come across information which will lead to an HMPC inspection outside of the regular claim protocol.

**C. HMPC Inspections Strategic Plan for FY 2024**

Table 1 represents the HMPC Program’s Inspection Strategic Plan for FY 2024. As outlined above, this program’s inspections are driven almost exclusively by the program receiving a formal complaint. Since the number of claims received cannot be predicted in advance of the fiscal year, the HMPC Program is not planning any inspections in 2024.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
HMPC Claim Inspections driven by complaints filed with TDA.	0
<b>Total Planned Inspections FY 2024</b>	<b>0</b>

**D. HMPC Violations and Enforcement in FY 2022**

The HMPC Program does not perform inspections proactively. Instead, a producer files an official claim form (RPC-405) with TDA claiming that they have suffered a loss. An inspection is scheduled with the claimant. The role of the TDA inspector is to gather facts about the claimed loss. The results of the inspection are submitted to the coordinator.

The coordinator submits a memo to the TDA Hearings Clerk who places the claim on the TDA Hearings Officer calendar as a hearing to come before the TDA Hearing Officer and the Program Coordinator. At the hearing, the TDA Hearing Officer will hear the parties present their information and review the details of the case and render a decision.

After the hearing has been completed, the TDA Hearings Officer will issue a Proposal for Decision (PFD). If the Hearing Officer decides in favor of Complainant, the Respondent will have 15 days from the date of the PFD to file a Notice of Protest.

If a party files a Notice of Protest within the 15-day period, a hearing will be held before the Produce Recovery Fund Board. If the party is dissatisfied with the determination of the Board, the party has a right to file a motion for rehearing and request judicial review.

Either party may appeal the TDA Hearing Officer’s decision and ask for a rehearing/judicial review. After the hearing (appeal of initial decision is not filed) or rehearing (appeal of initial decision is filed), the Board’s decision becomes final. If the Board’s decision is to pay the claim, there is a separate process which will not be detailed here.

In addition to the hearing board process, the parties can come to an agreement to settle the case before the hearing takes place. In this instance, TDA closes the case without a hearing.

For this section of the report, enforcement actions have been divided into two tables. Table 2 recaps those actions that take place before the case is calendared, namely inspections, identification of violations, and submitting cases to the TDA Hearings Clerk. Table 3 outlines the cases which were either settled prior to the hearing (closed) or the Board’s decision became final in FY 2022.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations Found</b>	<b>Cases Submitted to Legal Hearings Clerk</b>
HMPC Claim Inspections	1	1	1
<b>Totals</b>	<b>1</b>	<b>1</b>	<b>1</b>

Table 3 summarizes the cases that were either settled by the parties before the hearing (closed) or the hearing board’s decision had become final in FY 2022. The rightmost column is the count of cases where the violation was a major violation. This column is a subset of the total cases closed or finalized for the fiscal year. For this report, a major violation is defined as failure to pay for commodities delivered as well as operating without a license if the buyer does not pay cash on delivery.

**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Total Cases Closed/Finalized *</b>	<b>Cases Closed/Finalized – Major Violations</b>
HMPC Claim Outcomes	0	0
<b>Totals</b>	<b>0</b>	<b>0</b>

\* In 2021, two separate complaints were filed with both USDA’s Perishable Agriculture Commodity Act (PACA) and with TDA. TDA is awaiting USDA’s decisions on the two complaints before acting on the corresponding TDA claims.

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX F**

## **Agriculture Pesticide Inspection and Enforcement Strategic Plan FY 2024**

**AGRICULTURE PESTICIDE  
INSPECTION AND ENFORCEMENT STRATEGIC PLAN  
FY 2024**

**A. Inspection Purpose**

TDA's Agriculture Pesticide (Ag Pest) Program licenses and regulates pesticide applicators for both personal use, commercial use and non-commercial uses involved in agricultural production. The Ag Pest program also inspects those businesses that distribute pesticides to ensure the business is licensed if required and that pesticides are registered properly.

The Ag Pest inspection program administers and enforces the laws and regulations that ensure individuals and businesses are properly licensed and licensees are properly trained to perform agricultural pesticide applications. Ag Pest inspections make certain that all agricultural pesticide applicators who apply pesticides in and around agricultural sites are compliant with the laws and regulations pertaining to those in the application of agricultural pesticides.

**B. Types of Inspections Performed**

Ag Pest Program inspectors conduct inspections for several reasons to include Routine Inspections, Re-Inspections, Complaint Inspections, For Cause Inspections, and Use Observations.

Routine Inspections

Routine inspections are the most thorough inspections completed by ag pest inspectors. At a routine inspection, everything the business and/or individual is required to be compliant with will be checked. All noncompliance found must be documented on the inspection forms. The inspector also provides compliance assistance to the business or individual to explain how to come in compliance. Inspectors may not cite the business or individual as compliant even if the violation is corrected at the time of inspection. Applicators are inspected based on how many applicators of each classification there are and on the number of complaints received in the previous year. Pesticide Dealers are inspected every 3 years.

Re-Inspections

Re-inspections are inspections performed as a follow-up on noncompliance cited in a previous inspection – typically a routine inspection. Only items found non-compliant at the previous inspection are reviewed as well as records completed since last inspection. Any continued non-compliance found is documented on the inspection forms. As with the routine inspection, the inspector provides compliance assistance to explain how to come into compliance with the law or regulation. Non-compliance is noted on the inspection form, even if the non-compliance is corrected during the re-inspection.

### Complaint Inspections

Complaint inspections are inspections completed because of a complaint being filed with the Department. Upon receipt of a complaint, the inspector will respond immediately by contacting the complainant to gather sufficient preliminary information to determine if an investigation can be conducted and to arrange for an interview and onsite inspection with the complainant. Per TDA policy, response time for conducting the interview and inspection depends upon complaint type:

- Human exposure: Within 6 hours after initial notification of complaints involving alleged human exposure, the complainant will be contacted by an Assistant Regional Director or a Regional Director by phone. Within 24 hours, an inspector will contact the complainant in person.
- All other complaints: An inspector will make personal contact with the complainant within 48 hours from the date initially notified of complaints involving allegations other than human exposure.

### For-Cause Inspections

For-Cause inspections are inspections completed for a reason other than a complaint or re-inspection for previous noncompliance. When the Department has reason to believe there are violations with a particular entity, an inspector may be sent to the entity to perform a For-Cause inspection. A business or licensee demonstrating a lack of compliance with Department rules may be inspected more frequently than would otherwise apply. Some of the reasons for more frequent inspections are prior violations; prior inspection results; and prior complaints.

### Use Observations

Use Observations are inspections completed in the field while the inspector is observing an actual pesticide application or pesticide device use.

## **C. Agriculture Pesticide Inspection Strategic Plan for FY 2024**

Table 1 represents the Ag Pest's Inspection Strategic Plan for FY 2024. As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency's strategic plan. The following summarizes only those performance measures for the Ag Pest Program that involve inspections to be performed. For this report, re-inspections are included with the routine inspections. Since the number of complaints received cannot be predicted in advance of the fiscal year, the

number of complaint inspections in the table below represents an estimate based on the number of complaints received in past fiscal years.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Routine and Re-Inspection	4,700
Complaint estimate based on previous years	225
Use Observation	125
<b>Total Planned Inspections FY 2024</b>	<b>5,050</b>

**D. Agriculture Pesticide Violations Found and Enforcement Actions During FY 2022**

Inspectors send case reports for inspection-based incidents and complaint incidents to program specialists for review. A program specialist reviews the report for content and proper procedure, then submits the case file to Enforcement for further processing. Once Enforcement receives the case, TDA’s legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely inspections, identification of violations, and submitting cases to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA’s Legal Services Division.

Table 2 summarizes the action items that take place at the program level. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement.

**Table 2 – Inspections and Violations FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Cases Referred to Enforcement</b>
Routine Inspections	4,101	21
Re-Inspections	197	1
Complaint Inspections	346	141
Use Observations	173	0
<b>Totals</b>	<b>4,817</b>	<b>156</b>

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022. The rightmost column is the count of cases where the violation was a major violation. This column is a subset of the total cases discharged for the fiscal year. For this report, a major violation would include human exposure, working without a license, and pesticide drift onto another property. Major violations were issued a penalty.



**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Violations issued</b>	<b>Total Cases Discharged</b>	<b>Cases Discharged – Major Violations</b>
Routine and Re-inspection	2	4	3
Complaint	139	190	59
Use Observation	0	0	0
<b>Totals</b>	<b>141</b>	<b>194</b>	<b>62</b>

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX G**

## **Plant Quality Inspection and Enforcement Strategic Plan FY 2024**

**PLANT QUALITY**  
**INSPECTION AND ENFORCEMENT STRATEGIC PLAN**  
**FY 2024**

**A. Inspection Purpose**

One way the Texas Department of Agriculture protects consumers, and the plant industry is by regulating agricultural products through nursery/floral licensing, phytosanitary inspection of plant products, quarantine enforcement and pest monitoring. Our Plant Quality Programs facilitate plant commerce through phytosanitary certification of commodities to be shipped to other states and countries in cooperation with their agricultural agencies, the United States Department of Agriculture (USDA), the USDA Animal and Plant Health Inspection Service (APHIS) and USDA Plant Protection and Quarantine.

**B. Types of Inspections Performed**

Nursery/Floral Inspections

Nursery/Floral inspections are conducted throughout Texas on businesses that sell and propagate plant materials. The inspection strategy is to inspect a facility each year if the business grows the plants that they sell. Those businesses that sell plants or plant materials but do not grow them are inspected when they first open and then every 3 years as a cycle.

Road Station Inspections

Road station inspections help ensure plants and plant materials entering the state have met phytosanitary requirements, thus protecting the health of Texas' plant life. TDA has several road stations where 18-wheelers are required to stop for an inspection after crossing into Texas. The inspections are conducted in conjunction with the Texas Department of Public Safety (DPS). The presence of DPS personnel also ensures that TDA inspectors can safely carry out required inspections. The partnership with DPS adds weight to TDA's inspection requirement by adding the potential for criminal prosecution if a driver chooses not to stop.

Complaint Inspections

TDA inspectors follow up on complaints received by the public. The complaints can be made about both sellers and growers of plants in Texas and other states. Compliance of quarantine law helps to protect Texas when working with out of state plant businesses.

Quarantine Inspections

Quarantine inspections are conducted by the TDA to ensure plant pest and diseases are not spread in Texas. There are two sources of pests/diseases – from within the

state and from interstate commerce (pests and diseases brought from outside Texas). TDA inspects shipments from outside Texas at road stations. These shipments may be importing pests or diseases into Texas from quarantined areas outside of Texas. See explanation above for road station inspections.

Quarantine inspections are also conducted at businesses within the state that offer plants and plant materials for sale. The inspections help to ensure that these businesses are offering plants free of disease and pests to the consumer.

One agricultural crop, cotton, has a specific quarantine inspection associated with preventing the spread and potential eradication of the boll weevil. Cotton stalk destruction inspections are conducted by the Texas Boll Weevil Eradication Foundation (TBWEF) in cooperation with TDA. The TBWEF conducts the inspections. Any cotton fields found in non-compliance for the destruction of the cotton stalks after harvest, are then referred to the TDA's Enforcement Division for administrative penalty review.

**C. Plant Quality Inspection Strategic Plan for FY 2024**

Table 1 represents the Plant Quality's Inspection Strategic Plan for FY 2024. As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency's strategic plan. The following summarizes only those performance measures for Plant Quality that involve inspections to be performed.

Quarantine inspections performed for the Cotton Boll Weevil Eradication Program are not included in Table 1. The inspections verifying that the remaining cotton plant stubble after harvest has been destroyed are conducted by staff at the Texas Boll Weevil Eradication Foundation (TBWEF), therefore, the cotton stalk destruction inspections are not counted as inspections conducted by TDA staff and are not included in the Table 1.

Since the number of complaints received cannot be predicted in advance of the fiscal year, the number of complaint inspections in the table below represents an estimate based on the number of complaints received in past fiscal years.

**Table 1 – Inspection Strategic Plan for FY2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Nursery Floral Inspections	8,000
Road Station Inspections	185,000
State/Federal Quarantine	850
Complaint estimate based on previous years	970
<b>Total Planned Inspections FY 2024</b>	<b>194,820</b>

The number of road station inspections is an estimate of the number of 18-wheelers that will pass through the road station, not just those 18-wheelers that are carrying plant material.

**D. Plant Quality Violations and Enforcement in FY 2022**

Inspectors send case reports for inspection-based incidents and complaint incidents to program specialists for review. A program specialist reviews the report for possible violations and if found, then submits the case file to Enforcement for further review. Once Enforcement receives the case, TDA’s legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely inspections with identification of violations, and submitting cases to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA’s Legal Services Division.

Table 2 summarizes the action items that take place at the program level. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement. For quarantine violations found, 100% of violations found during inspection are referred to enforcement.

The road station violations are included with the quarantine violations. The cotton stalk destruction inspections are not carried out by TDA, therefore, table cells for the number of inspections and the number of violations found are left blank. However, if violations are found during the cotton stalk destruction inspections, they are enforced by the TDA Enforcement Division. Boll weevil quarantine violations have become relatively rare due to the vigilance of TDA’s inspectors and cotton growers.

**Table 2 – Inspections and Violations FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations found</b>	<b>Cases Referred to Enforcement</b>
Nursery/Floral	8,268	217	10
Complaint	9	5	1
Cotton Stalk Destruction	--	--	43
Boll Weevil	--	--	0
Quarantine	1,180	128	128
Road Station	184,466	64 shipments rejected	Included with Quarantine and Boll Weevil cases
<b>Total</b>	<b>193,924</b>	<b>414</b>	<b>182</b>

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022. The rightmost column is the count of cases where the violation was a major

violation. This column is a subset of the total cases discharged for the fiscal year. For this report, there are two violations that are considered major violations:

- selling without a license, and
- possible introduction of a plant pest or disease that could affect an agriculture plant industry in Texas.

**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Total Cases Discharged</b>	<b>Cases Discharged – Major Violations</b>
Nursery/Floral	2	1
Complaint	1	1
Cotton Stalk Destruction	6	0
Boll Weevil	1	0
Quarantine	90	52
Road Stations	Included with Quarantine and Boll Weevil cases	Included with Quarantine and Boll Weevil cases
<b>Total</b>	<b>100</b>	<b>54</b>

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX H**

## **Weights and Measures Inspection and Enforcement Strategic Plan FY 2024**

**WEIGHTS AND MEASURES**  
**INSPECTION AND ENFORCEMENT STRATEGIC PLAN**  
**FY 2024**

**A. Inspection Purpose**

ACP's Weights and Measures Program provides standards for private industry which discourage unfair and dishonest commerce. TDA also adopts rules and regulations to help eliminate fraud and misrepresentation in commercial transactions. To verify that weighing and measuring devices are fair and accurate, TDA inspects weighing devices and measuring devices to ensure the devices' performance is within acceptable tolerances. TDA also inspects packaging and product pricing to enforce net content and labeling regulations. The Weights and Measures Program inspections build consumer confidence and provides marketplace equity for businesses.

**B. Types of Inspections Performed**

Device Inspections

The number of routine device inspections for TDA to complete within each fiscal year is set by the Legislative Budget Board (LBB). TDA Regions are then assigned a portion of the performance measure based on the number of licensees, compliance history for the type of license, and any statutory requirements. Additionally, new weights and measures licensees have their first routine inspection within one year of license issuance. Regional management ensures that all inspections are performed in a timely manner.

Package and Price Verification Inspections

Package and Price Verification inspections are like Device Inspections in that the total number is defined in the LBB performance measure for price and package verification inspections. The inspections are then allocated between the regional offices.

Complaint Inspections

Complaint device inspections are received at the Austin office and at the five regional offices. Each complaint inspection is assigned to an inspector by regional management. Inspections are completed within the assigned timeframe.

**C. Weights and Measures Inspection Strategic Plan for FY 2024**

Table 1 represents the Weights and Measures Program's Inspection Strategic Plan for FY 2024. Per Texas Agriculture Code Title 2 §13.101(a), devices are to be inspected once every four years. As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency's strategic plan.

As of March 2023, there were 92,619 licensed devices at 14,931 facilities spread throughout Texas. The Texas Agriculture Code specifies that the devices are to be inspected once every four years, which is 23,154 devices inspected per year. The LBB performance measure requires 40,000 device inspections each year, which is equivalent to



an inspection once every 2.3 years, a standard that offers more protection to the citizens of Texas.

The LBB performance measure has listed 2,500 package and price verification inspections annually. The purpose of these inspections is to verify compliance with the label's stated contents. There are no statutory or rule requirements outlining the inspection frequency for these inspection types. ACP has elected to evenly split the LBB performance measure between the package inspections and price verification inspections.

Since the number of complaints received cannot be predicted in advance of the fiscal year, the number of complaint inspections in the table below represents an estimate based on the number of complaints received in past fiscal years.

The following table summarizes only those performance measures for the Weights and Measures Program that involve inspections to be performed.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Device Inspections	40,000
Package Inspections	1,250
Price Verification Inspections	1,250
Complaint Inspections estimate based on previous years	80
<b>Total Planned Inspections FY 2024</b>	<b>42,580</b>

**D. Weights and Measures Violations and Enforcement in FY 2022**

Inspectors send case reports for inspection-based incidents and complaint incidents to program specialists for review; the program specialist then submits the case file to Enforcement for further review. Once Enforcement receives the case, TDA's legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely device inspections, identification of violations, and submission of inspection reports and samples to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA's Legal Services Division.

Table 2 summarizes the action items that are usually completed within a given fiscal year. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations found</b>	<b>Cases Referred to Enforcement</b>
Device Inspections	40,103	1,487	99
Package & Price Verification	2,470	525	476
Complaint	88	38	18
<b>Totals</b>	<b>42,661</b>	<b>2,050</b>	<b>593</b>

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022, which may or may not be the fiscal year when the violation was uncovered by inspectors. The rightmost column is the count of cases where the violation was a major violation. This column is a subset of the total cases discharged for the fiscal year. For this report and as outlined in the Weights and Measures Administrative Penalty Matrix, a major violation is defined as a penalty with an automatic enhancement for subsequent offenses.

**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Total Cases Discharged</b>	<b>Cases Discharged – Major Violations</b>
Device Inspections	72	0
Package & Price Verification	372	22
Complaint	12	0
<b>Totals</b>	<b>456</b>	<b>22</b>

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX I**

## **Egg Quality Inspection and Enforcement Strategic Plan FY 2024**

**EGG QUALITY  
INSPECTION AND ENFORCEMENT STRATEGIC PLAN  
FY 2024**

**A. Inspection Purpose**

The mission of the Egg Quality Program is to ensure that the eggs sold to Texas consumers meet TDA and USDA’s quality standards. The Egg Quality Program licenses individuals and businesses that participate in the Texas egg industry. Inspectors inspect eggs at packing plants, distribution centers, and retail outlets to ensure compliance with applicable laws, regulations, and policies. This results in strong consumer confidence that quality eggs are available in the marketplace.

**B. Types of Inspections Performed**

TDA inspectors conduct egg inspections at retail locations, egg dealer wholesalers, egg processors, and egg brokers. Performance measures are assigned to each Region to be completed for the fiscal year. Regional management assigns inspections to individual inspectors to be completed within an assigned timeframe. Routine inspections of egg dealers, processors and brokers are completed every fiscal year.

**C. Egg Quality Inspections Strategic Plan for FY 2024**

Table 1 represents the Egg Quality Program’s Inspection Strategic Plan for FY 2024. As discussed in Section III of the main report, performance measures for this program are set by the Legislative Budget Board (LBB) in the agency’s strategic plan. In setting the LBB performance standard, consideration was given to the number of licensed facilities (egg brokers, dealers, and processors), the number facilities that do not require TDA registration (convenience stores and grocery stores), and available TDA inspection personnel. Inspection site selection is weighted toward the grocery and convenience stores since consumers are directly impacted by any violations found.

The following summarizes the performance measures for the Egg Quality Program for inspections to be performed.

**Table 1 – Inspection Strategic Plan for FY 2024**

<b>Inspection Type</b>	<b>Inspection Goals</b>
Egg Inspections	2,200
<b>Total Planned Inspections FY 2024</b>	<b>2,200</b>

Egg brokers, egg processors, and egg dealer/wholesalers are required to register with TDA. No regulations or statutes specify the frequency of inspection for these facilities. Currently, there are 461 licenses for facilities subject to Egg Law. ACP policy is that TDA-licensed facilities are inspected every year, on average. The LBB performance measure includes inspections at registered/licensed facilities as well as inspections carried out at RNR (registration not required) facilities like grocery stores and convenience stores.

The number of egg inspections performed may be affected by egg availability due to Highly Pathogenic Avian Influenza (HPAI) outbreaks. TDA monitors the reported HPAI outbreaks via the USDA APHIS website.

**D. Egg Quality Violations and Enforcement in FY 2022**

Inspectors submit inspection reports for inspection-based incidents and complaint incidents to regional management for review. Regional management review the reports for violations and if found, submits the case file to Enforcement for further processing. Once Enforcement receives the case, TDA’s legal staff work on the case until resolution/discharge. There are many steps to resolve a case. More complex cases take longer to resolve.

For this section of the report, enforcement actions have been divided into two tables. One table is for those actions that take place at the program level, namely the number of inspections, identification of violations, and submitting cases to Enforcement. The other table is for finalized/discharged enforcement cases which are handled by TDA’s Legal Services Division.

Table 2 summarizes the action items that take place at the program level. These items are the number of inspections performed, the number of violations found, and the number of violations referred to Enforcement.

**Table 2 – Violations Found by Inspection in FY 2022**

<b>Inspection type</b>	<b>Inspections Performed</b>	<b>Violations Found</b>	<b>Cases Referred to Enforcement</b>
Egg Inspections	2,174	206	15
<b>Totals</b>	<b>2,174</b>	<b>206</b>	<b>15</b>

Table 3 summarizes the enforcement actions that were finalized (discharged) in FY 2022. The rightmost column is the count of cases where the violation was a major violation. This column is a subset of the total cases discharged for the fiscal year. For this report, a major violation is defined as a violation that has an automatic enhancement for subsequent offenses.

**Table 3 – Enforcement Action FY 2022**

<b>Inspection type</b>	<b>Total Cases Discharged</b>	<b>Cases Discharged – Major Violations</b>
Egg Inspections	10	0
<b>Totals</b>	<b>10</b>	<b>0</b>

There were no cases discharged in FY 2022 that were licensees with repeat major violations.

# **APPENDIX J**

## **Comments and Responses for the FY 2024 Inspection and Enforcement Strategic Plan**

## **COMMENTS AND RESPONSES FOR THE DRAFT INSPECTION AND ENFORCEMENT STRATEGIC PLAN**

ACP published a draft Inspection and Enforcement Strategic Plan for FY 2024 on TDA's website, [www.texasagriculture.gov](http://www.texasagriculture.gov). There was a 30-day comment period. ACP emailed affected industry marketing groups directly to solicit their opinions as well. Three comment letters were received: BASF Corporation (BASF), Texas Seed Trade Association (TSTA), and Texas Pest Control Association (TPCA). The following is a summary of comments received edited for length and clarity and ACP responses:

1. COMMENT: I have several suggestions for improving the wording to be more effective. I focused on the SPCS section as that is what I am involved with. (BASF)

RESPONSE: Thank you for your careful attention to the report's language. Your suggestions have been incorporated into the report, as applicable.

2. COMMENT: A significant portion of wheat planted every fall in Texas is sourced from public breeding programs. It is calculated that 80% or more of the publicly sourced wheat seed planted in Texas is "brown-bag" seed. Grain (animal feed) sold by local grain elevator operators can be utilized as brown-bag seed. There is no assurance of the quality and type of seed being purchased, no testing whatsoever of germination or purity, no seed subjected to sampling, no laboratory analysis of any kind, and no characterization of weed seed content for 'grain'. If elevator operators desire to continue the practice, several requirements should be addressed, and several business and technical practices altered or enacted to assure proper labeling and to verify the quality of the seed. Anything that circumvents the TDA's seed quality system is theft of intellectual property and weakens the efforts of our plant breeders. (TSTA)

RESPONSE: Thank you for articulating this marketplace issue. TDA is always open to hear suggestions on procedural and rule updates and changes. In addition, it is important for the Department to hear firsthand of happenings in the industry that affect those being regulated by the Department. Equity in the industry plays just as vital a role as consumer protection. We are committed to investigating these issues as we are made aware of them.

If you or your constituents know of specific incidents of these type of transactions taking place, we encourage you to file a complaint at 1-800-TELLTDA or on our website at [www.texasagriculture.gov](http://www.texasagriculture.gov).

3. COMMENT: Based on the research conducted, does TDA think that the fines are high enough to deter offenders from repeated violations? (TPCA)

RESPONSE: We do believe fines are high enough to deter most offenders from repeat violations. For those offenders who repeat violations, TDA accounts for them by

escalating fines within our penalty matrix. See Section 1951.602(a) (Civil Penalty; Injunction) of the Texas Occupations Code.

4. COMMENT: Could creating a self-reporting/auditing program for previous non-offenders allow ACP to focus on other pest control operations that require more attention? (TPCA)

RESPONSE: The current inspection frequency prescribed by statute of inspecting a business in its first year of operation and at least once every four years afterwards. This inspection frequency allows the Department to focus more frequent inspections on PCOs that require more attention while inspecting non-offenders once every four years, thus assuring they continue to be non-offenders.

5. COMMENT: If the LBB has tasked TDA with inspections or benchmarks that do not yield actionable data for the department, would it be possible for ACP to request a waiver or deferral on those inspections? (TPCA)

RESPONSE: The SPCS LBB requirements are reasonable and yield actionable data for the department. Routine inspections of businesses have yielded a high number of Inspection Based Incidents (IBI's). TDA is given the opportunity to suggest revisions to the LBB goals and has done so with success, allowing for inspections to be concentrated where needed.