



Adoption of Cotton Pest Control Regulations With Changes Made to Accommodate Comments Received

Timeline of Events

- The Texas Legislature passed HB 1580 (effective May 27, 2009) related to boll weevil eradication and requirements for noncommercial cotton and cotton stalk destruction. The intent of the legislation was to advance boll weevil eradication efforts in the most efficient and effective way possible.
- TDA developed proposed regulation changes to implement the requirements of HB 1580. The proposed rule changes were published in the Texas Register on July 3, 2009 for a 30-day public comment period.
- Twenty-six comments were received from cotton producer associations, producers, consultants and others.
- Comments were used as a basis for making changes to the proposed regulations.

Regulation Changes Adopted

TDA considered each comment received and made modifications to the regulations that are consistent with the intent of HB 1580, reflect the latest scientific information to accelerate boll weevil eradication, and factor in production, harvesting and destruction practices in various parts of the state.

Cotton Stalk Destruction Deadline Changes

- Using science-based recommendations from the Texas Boll Weevil Eradication Foundation's Technical Advisory Committee, TDA proposed a stalk destruction deadline change from November 30 to November 10 in Zone 7 Area 1 and Zone 8 Area 2. Zone 7 Area 1 includes Anderson, Angelina, Cherokee, Houston, Leon, Nacogdoches, Panola, Rusk, Sabine, San Augustine, Shelby and Smith counties. Zone 8 Area 2 includes Ellis, Henderson, Hood, Johnson, Navarro and Somervell counties.

- Based on a combination of comments from producers concerning local-area conventional production practices and updated scientific data, TDA adopted **November 20 as the destruction deadline for both Zone 7 Area 1 and Zone 8 Area 2.** The revised date includes more than 50 days for harvest and destruction of a field.
- Furthermore, **TDA made the deadline date change effective for the 2010 growing season** instead of the current growing season as was proposed. Producers planted this year's crop under regulations that specify a November 30 destruction deadline date.

Request for Destruction Deadline Extensions

- HB 1580 requires that Cotton Producer Advisory Committees and producers must submit requests for a deadline extension not later than 10 business days prior to a destruction deadline.
- Based on comments received and TDA's interpretation of the intent of the law, the regulations were modified to specify that **only fields that are unharvested as of 10 days prior to the established destruction deadline will be subject to a 10 day requirement.**
- Some producers commented that the 10 business day deadline would result in the need for a producer to submit an extension request as a precautionary measure prior to a deadline. Therefore, **for regrowth and volunteer cotton, TDA will accept an extension request up to the end of the day of the established deadline.**
- Some comments requested that TDA implement a grace period for hostable plants found in fields that had already been destroyed (i.e., regrowth). TDA has modified the proposal to provide that fields that have been destroyed prior to the deadline will be considered to have met the destruction requirements and it is the responsibility of the producer to maintain the field free of hostable cotton. **If the department finds hostable regrowth or volunteer cotton in a destroyed field after the deadline, the department will give notice to the producer requiring the producer to render the plants nonhostable within 7 days,** which is the same amount of time given under the current program.
- The proposal has also been modified to provide that if adverse weather conditions prevent a producer from destroying regrowth or volunteer cotton in a destroyed field upon notice by the department, the producer may request an extension of the 7day grace period. These requests may be made at anytime up to the 7th day within the grace period.
- During an extension or a grace period, the hostable commercial cotton fee will not be assessed.

Hostable Noncommercial Cotton Fee

- HB 1580 requires TDA to assess a fee for hostable noncommercial cotton in locations other than commercial cotton fields.
- TDA proposed a fee of \$5/acre/week for noncommercial cotton not destroyed within 14 days of notice by TDA. The proposed rule also placed a cap on the fee at the boll weevil assessment rate for the area.
- Based on comments received concerning the cap on the fee, the adopted rule **removed the cap on the hostable noncommercial cotton fee once the stalk destruction deadline for the area passes** and hostable noncommercial cotton remains in a location other than a commercial cotton field.
- If adverse weather conditions prevent a producer from destroying noncommercial cotton upon notice by the department, the producer may request an extension of the 14-day grace period. These requests may be made at anytime within the grace period. These requests for extension of the grace period are limited to adverse weather that prevents destruction of the noncommercial cotton.

Hostable Commercial Cotton Fee

- HB 1580 requires TDA to assess a fee for hostable commercial cotton after a cotton stalk destruction deadline and increase the fee by 150% after 30 days of noncompliance. The fees collected are intended to replace administrative penalties (which are considered state general revenue). The legislation intended that hostable commercial cotton fees would be used to cover the costs of late season boll weevil eradication monitoring and treatment by the Foundation.
- TDA proposed a fee of \$5/acre/week for hostable commercial cotton after the stalk destruction deadline or an extended deadline. After the 5th week of noncompliance, the fee was proposed to increase to \$7.50/acre/week.
- Based on comments received in support of the fee, **the hostable commercial cotton fee is adopted at the proposed rates.**
- It is the responsibility of the producer to maintain the field free of hostable cotton once cotton has been destroyed. Requirements for hostable regrowth and volunteer cotton can be found above in the section related to Destruction Deadline Extensions.