



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

October 13, 2015

To: Texas Department of Agriculture Stakeholders
Subject: Texas Department of Agriculture Fee Updates

Dear Stakeholders:

Please be advised the Texas Department of Agriculture (TDA) has recently filed regulatory fee changes with the Texas Register that, if adopted, will increase some of the fees charged for various licenses, renewals, inspections and other activities related to statutory duties of TDA.

As required by the state legislature, TDA has continued to evolve toward a cost recovery method of financing its regulatory programs. The legislature did not require fee increases, but our fee structure must change to meet cost recovery expectations in the General Appropriations Act. The necessary rule changes were published in the Texas Register on October 9, 2015. If adopted, the fee changes will go into effect on December 1, 2015.

In anticipation your members have questions related to the fee updates; TDA is providing you with notice of the rule changes, which can be accessed here:

<http://www.sos.state.tx.us/texreg/pdf/backview/1009/1009prop.pdf>

Also, a cost recovery rate overview, including the current fee structure versus the proposed fee structure, is enclosed. Please note the public comment period on these changes is from October 9, 2015 to November 8, 2015.

A contact person at TDA is listed for each proposed chapter of the rule changes. Any questions you have regarding the rule changes should be directed to the named person in the proposal. We will endeavor to provide any information you may need to increase transparency regarding the new fee increases.

Thank you for your attention to this matter.

Sincerely,

Sid Miller
Commissioner



Texas Department of Agriculture Cost Recovery Programs Rate Study FY2016

The Texas Department of Agriculture (TDA) has completed a comprehensive review of the fee structure for its agriculture and consumer protection programs. This was a lengthy, detailed process that analyzed both revenue and expenditures.

TDA's regulatory programs are statutorily designed to recover direct and indirect costs where feasible. Our recent review of the current fee structure revealed some rates have not changed since 1996, and of the rates we are updating, the most recent changes occurred between 2011 and 2013.

BUDGET DIRECTIVES

In 2012, certain TDA programs that had been funded through general revenue were expected to begin functioning as cost recovery programs. The legislature continued to provide a cushion of general revenue to help the transition. For the FY16-17 biennium, the 84th Legislature adopted a budget for TDA with the intent that certain programs become self-sufficient and no longer rely on general revenue.

TDA's goal of establishing a consistent and sustainable revenue source for these programs is much like any service industry. Performance goals and statutory responsibilities, along with the need for efficient and effective service delivery provided the context for analysis of operational costs and revenue projections.

CONSISTENCY IN REVENUE STREAM

Recent budget rules placed restrictions on the movement of funds within TDA and across fiscal years. This reduced flexibility created a need to more tightly control cash flow. Some fees are collected in two or five year cycles. In FY16, TDA will be reviewing various options for a more consistent revenue stream. The goal is to reduce the risk that fees collected in the first year are swept into the general revenue fund before the baseline program needs in the second (or fifth) year are met.

STAKEHOLDER ENGAGEMENT

During the session, some of the budgetary changes and impacts to fee-based programs were supported by associations and boards working directly with various legislators. TDA continues to communicate with stakeholders about the potential for fee increases and will be sharing the results of the rate study with interested parties. Fee change proposals are submitted to the Texas Register, giving the public an opportunity to comment on the proposed changes.

STATUTORY NOTICE

Whether increased or decreased, the fee rates are set by TDA and not mandated by the Legislature. (GAA Art. IX §6.16).

Attached are the proposed rates by program and strategy.

**Strategy 1.1.2 Regulated Pesticide Uses
COST RECOVERY RATE ANALYSIS**

Exhibit A

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Pesticide Applicator Certification		
Agriculture commercial	180.00	200.00
Agriculture noncommercial	120.00	140.00
Agriculture Noncommercial Political Subdivision	12.00	75.00
Agriculture Private License 5-Year	60.00	100.00
Agriculture Private License 5-Year (late fee)	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr
Category Test Fees	0 - 24.00	64.00
Private Recertification Exam	50.00	64.00
Dealer Licensing		
Pesticide Dealer 2-Year	240.00	250.00
Pesticide Dealer 2-Year (late fee)	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr
Pesticide Product Registration		
Product Registration 2-year	420.00	600.00
Product Registration 2-year (late fee)	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr
Prescribed Burn		
Prescribed Burn Commercial Lic. 2-year	500.00	500.00
Prescribed Burn Private License 2-yr	500.00	500.00
Prescribed Burn License 2-yr (late fee)	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr

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**Strategy 1.1.3 Integrated Pest Management
COST RECOVERY RATE ANALYSIS**

Exhibit A

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Citrus		
Citrus Budwood - Per Budwood Stick	0.06	0.10
Citrus Budwood Foundation Grove Application	250.00	250.00
Organics		
Organic Cert -[1 Time] NEW Application Fee/License	400.00	400.00
Organic Certification - 50% 1-90 Day Late Fee;	1,500.00	1,500.00
Organic Certification - 100% 91-365 Day Late Fee	1,500.00	1,500.00
Handler - Organic Certification fee	1,500.00	1,500.00
Handler - Organic Certification Review Fee per Product up to 25 Products	250.00	250.00
Handler - Organic Certification Review Fee per Product above 25 Products	100.00	100.00
Handler - Organic Cert - New Product Review	200.00	200.00
Producer - Cert Review Fee - per additional input	100.00	100.00
Producer - Certification Fee - 50 Acres or Less	1,000.00	1,000.00
Producer - Certification Fee - More than 50 Acres	1,500.00	1,500.00
Producer - Certification Fee - Livestock	1,000.00	1,000.00
Producer - 5,000 Acres or More - Add'l Inspection Fee (< 5,000 acres max fee \$4,200)	600.00	600.00
Administrative Fee - Mid-year Review Fee	300.00	300.00
Administrative Fee - Compliance Fee	200.00	200.00
Admin Fee - \$200 Facility Visit + \$250 per sample; Requested Sample Collection (separate from inspection)	450.00	450.00
Service Fee -USDA NOP-EU Equivalency Review	75.00	75.00
Service Fee-USDA NOP-COR Equivalency Review	75.00	75.00
Service Fee - Certificate of Inspection for USDA NOP - EU Equivalency	50.00	50.00
Service Fee - Attestation Notice for USDA NOP - COR Equivalency USDA NOP - EU Equivalency	50.00	50.00
Administrative Fee - Re-inspection Fee	400.00	400.00
Administrative Fee - Sample Collection and Analysis Fee Requested by Client During Scheduled Inspection	250.00	250.00
Transaction Certificate Fee	100.00	100.00

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**Strategy 1.1.5 Agriculture Production Development – Seed Certification
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 1

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Seed Certification - Field Inspection		
Application Fee per Field	30.00	100.00
Application Late Fee per Field	50.00	100.00
Pre-Plant Application Fee (vegetative propagated mat)	30.00	100.00
Re-inspection Fee; Number of Applications for Pre-Plant	50.00	100.00
Agrotricum/Acre	0.70	1.35
Alfalfa/Acre	1.40	2.40
Buckwheat/Acre	0.70	1.35
Cantaloupe/Acre	6.90	10.65
Clover (All Kinds)/Acre	1.40	2.40
Corn/Acre	4.30	6.75
Cotton/Acre	1.00	1.80
Cowpea, Field Bean, Flat Pea, Partridge Pea/Acre	1.40	2.40
Flax and Rape/Acre	1.75	2.40
Forest Tree Seed/Acre	6.90	10.65
Forest Tree Seedlings/Acre	55.00	82.80
Grass (seeded)/Acre	5.50	8.55
Grass (vegetative propagated)/Acre	13.25	20.20
Millet (foxtail and pearl)/Acre	1.40	2.40
Millet (gahi and hybrids)/Acre	3.75	5.95
Okra and Pepper/Acre	4.30	6.75
Peanut /Acre	1.00	1.80
Rice, Hybrid / Acre	5.00	7.80
Rice/Acre	4.00	6.30
Small Grain/Acre	0.70	1.35
Sorghum (open pollinated)/Acre	1.20	2.10
Sorghum (commercial hybrids)/Acre	3.60	5.70
Hybrid Sorghum Varietal Purity Grow-outs	120.00	180.00

**Strategy 1.1.5 Agriculture Production Development – Seed Certification
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 2

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Seed Certification - Field Inspection (continued)		
Sorghum (A, B, and R lines)/Acre	10.50	16.05
Soybean & Mung bean/ Acre	0.80	1.50
Sugarcane/Acre	7.00	10.80
Sunflower (commercial hybrids)/Acre	3.50	5.55
Sunflower (A and R lines)/Acre	10.30	15.75
Sunflower (open pollinated), Bush Sunflower, Max/Acre	3.50	5.55
Sunflower Varietal Purity Grow-outs	120.00	180.00
Watermelon/Acre	7.50	11.55
Guar	0.55	1.15
Illinois Bundleflower, & Englemann daisy	4.30	6.75
Other Kinds Not Listed/Acre	7.00	10.80
Seed Certification - Interagency Certification		
Inter-agency Certification Fee by Lots	200.00	200.00
Seed Certification - Seed Labels		
Certified Labels (100 lb. containers or less)/Label	0.12	greater of \$0.16 or \$5.00
Certified Labels (>100 lb. containers)/Label	0.12	greater of \$0.16 or \$5.00
Certified Labels (bulk certificates)/100 lb./Label	0.12	greater of \$0.16 or \$5.00
Varietal Application/Variety	50.00	100.00
Reg Plant Breeder/Certified Seed Grower Appl Fee	150.00	250.00

The above fee rates were set by TDA, and were not mandated by the Legislature. (GAA Art. IX §6.16).

**Strategy 2.1.2 Verify Seed Quality
COST RECOVERY RATE ANALYSIS**

Exhibit A

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Seed Arbitration		
Seed Arbitration - Filing Fee	300.00	500.00
Seed Law		
Agricultural - Seed Sales Qtrly Report (per 100 Lb.)/ License Fee	0.18	0.45
Agricultural - Penalty for Late Filing of Qtrly reporting	Greater of \$50 or 10% of fee due	Greater of \$50 or 10% of fee due
Agricultural - Texas Tested Seed Labels/License Fee (100 lb. containers or less)	0.18	0.45
Agricultural - Texas Tested Seed Labels/License Fee (greater than 100 lb. containers)/Label	0.18	0.45
Vegetable - Individual Vegetable Seed License Fee	300.00	350.00
Seed Testing - Standard Germination Test	50.00	60.00
Seed Testing - Standard Germination Test - grass	80.00	90.00
Seed Testing - Vigor	50.00	60.00
Seed Testing - Red Rice Test – 10 lbs	35.00	45.00
Seed Testing - Red Rice Test – 75 lbs	75.00	85.00

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(GAA Art. IX §6.16).

**Strategy 2.1.3 Agriculture Commodity Regulation
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 1

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Handle/Mkt of Perishable Commodities		
HMPC - Produce Recovery Fund	250.00	250.00
Buying Agents/Transporting Agents - ID Card Fee	15.00	30.00
Complaint - Claim Filing Fee	20.00	50.00
General License Fee	115.00	150.00
Grain Warehouse		
Annual Inspection - Bushels	Greater of \$22 per/ 10,000 BU or \$100	Greater of \$38 per/ 10,000 BU or \$200
Combo License Application/Renewal for Each Add'l Facility	160.00	300.00
Combo License Application/Renewal Headquarters	235.00	500.00
Single License Application/Renewal	235.00	500.00
Requested Inspection - Bushel Capacity	Greater of \$22 per/ 10,000 BU or \$100	Greater of \$38 per/ 10,000 BU or \$200
Requested Inspection-Partial Inspection-Other issues	100.00	150.00
Egg Law		
Broker - License	420.00	500.00
Dealer/Wholesaler - Class 1 (1-9 Cases/WK)	20.00	100.00
Dealer/Wholesaler - Class 2 (10-49 Cases/WK)	40.00	100.00
Dealer/Wholesaler - Class 3 (50-99 Cases/WK)	60.00	100.00
Dealer/Wholesaler - Class 4 (100-199 Cases/WK)	100.00	300.00
Dealer/Wholesaler - Class 5 (200-499 Cases/WK)	180.00	300.00
Dealer/Wholesaler - Class 6 (500-999 Cases/WK)	270.00	500.00
Dealer/Wholesaler - Class 7 (1000-1499 Cases/WK)	360.00	500.00
Dealer/Wholesaler - Class 8 (1500-2999 Cases/WK)	720.00	1,000.00
Dealer/Wholesaler - Class 9 (300-4499 Cases/WK)	900.00	1,200.00
Dealer/Wholesaler - Class 10 (4500-6999 Cases/WK)	1,200.00	1,500.00
Dealer/Wholesaler - Class 11 (7000-9999 Cases/WK)	1,800.00	2,100.00
Dealer/Wholesaler - Class 12 (10000+ Cases/WK)	2,400.00	2,700.00
Processor - Class 1 (1-249 Cases/WK)	60.00	100.00
Processor - Class 2 (250-599 Cases/WK)	120.00	175.00
Processor - Class 3 (600-1499 Cases/WK)	210.00	250.00
Processor - Class 4 (1500+ Cases/WK)	420.00	450.00
Inspection/Case Fee	0.03	0.06

**Strategy 2.1.3 Agriculture Commodity Regulation
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 2

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Enforcement		
Grain Warehouse - Enforcement - Penalties for Violations	Not more than \$10,000 per violation	Not more than \$10,000 per violation
Egg Law - Enforcement/Chptr 15 - Administrative Penalty	Not to Exceed \$500 per violation	Not to Exceed \$500 per violation
Late Fees		
Grain WH - General License - Late Fees		
Grain WH - License Application - Late Fees	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr
Egg Law - Broker - License Late Fees		
Egg Law - Dealer/Wholesaler - Late Fees		
Egg Law - Processer - Late Fees		

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**Strategy 2.1.4 Structural Pest Controls
COST RECOVERY RATE ANALYSIS**

Exhibit A

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Structural Pest Control		
Business License	see below	300.00
Business License - original/renewal	224.00/224.00	-
Commercial /Noncommercial Certified Applicator License	see below	125.00
Commercial /Noncommercial Certified Applicator License - original/renewal	108.00/100.00	-
Commercial /Noncommercial Technician License	see below	125.00
Commercial /Noncommercial - Renewal Technician License - original/renewal	81.00/76.00	-
Licensing - Reissue license for loss or name change	30.00	eliminated
Testing - Exam Fee - all categories	64.00	64.00
SPCS CEU Approval - Continuing Education Course	48.00	eliminated
Late Fees	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr
Enforcement		
Administrative Penalties (SPCS) - Violations	Up to \$5,000/per violation/per day	Up to \$5,000/per violation/per day

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**Strategy 3.1.1 Inspect Measuring Devices
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 1

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Devices - Weights & Measures		
Bulk Meter (rated flow >100 GPM)	36.00	250.00
LPG Meter	32.00	65.00
Bulk Meter (rated flow 20 GPM-100 GPM)	36.00	75.00
Livestock Scale (5,000 pounds or greater)	172.00	350.00
Other Scales (greater than 2,000 pounds)	120.00	250.00
Ranch Scale	16.00	32.00
Scales (0-2,000 pound capacity)	16.00	35.00
Truck Scale (5,000 pounds or greater)	172.00	400.00
Consumer Information Sticker (1 page of 8)	8.00	8.00
Fuel Pump - Diesel (one product per nozzle)	7.20	12.00
Fuel Pump - E85-Fuel Ethanol (one product per nozzle)	7.20	12.00
Fuel Pump - Gasoline (one product per nozzle)	7.20	12.00
Fuel Pump (multiple products per nozzle)	21.20	36.00
Precision Test Fees - Metrology		
Up to and including 3 kilograms	70.00	70.00
> 3 kilograms but =< 30 kilograms	110.00	110.00
> 30 kilograms	140.00	140.00
note: do not have certification due to lack of environmental controls		
Tolerance Test Fees - Metrology		
<10 pounds	20.00	20.00
>10 pounds but <500 pounds	30.00	30.00
>500 pounds but < 2,500 pounds	60.00	60.00
> 2,500 pounds	110.00	110.00

**Strategy 3.1.1 Inspect Measuring Devices
COST RECOVERY RATE ANALYSIS**

Exhibit A – Page 2

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Volume Measures Fees - Metrology		
<=5 gallons	55.00	55.00
Fee—all containers over 5 gallons	\$65 (+ \$1 for each gal > 5 gal)	\$65 (+ \$1 for each gal > 5 gal)
LPG Provers—25 gals or less	150.00	150.00
LPG Provers—over 25 gals	325.00	325.00
Weight Measure Fees - Metrology		
Prover Neck Calibration	50.00	50.00
Weight adj. > 1,000 lbs	20.00	40.00
Weight adj. > 100 lbs to 1,000 lbs	10.00	20.00
Weight adj >10 lbs to 100 lbs	5.00	10.00
Weight adj <10lbs	5.00	10.00
Lottery Balls - Metrology		
Lottery Ball Testing (note: IAC; Mandatory)	10.00	10.00
License Service Companies		
License	100.00	150.00
Weights & Measures - Other		
Public Weighers - Certificate of Authority	485.00	500.00
Registered Technicians - 5-year License (Not issued-Exam is License)	60.00	0.00
Examination Fee - must retest every 5 years	60.00	60.00
Late Fees	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr

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Strategy 3.1.1 Inspect Measuring Devices
APPROPRIATED RECEIPTS RATE ANALYSIS

Exhibit A

FEE TABLE

Particulars	Current Fee Structure	Proposed Fee Structure
Motor Fuel Testing - Fuel Quality - Octane		
One Gas Product Per Nozzle	3.30	4.00
Multiple Gas Products Per Nozzle	9.90	12.00
One Fuel Product Per Nozzle - Not Gas	0.80	1.00
Multiple Fuel Products Per Nozzle - Not Gas	2.40	3.00
Distributor, Jobber, Wholesaler	20.00	40.00
Supplier	1,500.00	1,500.00
Late Fees	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr	1.5 times fee if < 90 days late; 2 times fee if > 90 but <1 yr

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