

From: [Sunset Advisory Commission](#)
To: [Elizabeth Jones](#)
Subject: FW: Public Input Form for Agencies Under Review (Public/After Publication)
Date: Wednesday, September 23, 2020 8:24:17 AM

From: sunset@sunset.texas.gov On Behalf Of Texas Sunset Commission
Sent: Wednesday, September 23, 2020 8:24:14 AM (UTC-06:00) Central Time (US & Canada)
To: Sunset Advisory Commission
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS DEPARTMENT AGRICULTURE

First Name: Luke

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Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

We support Recommendations 4.5 to “Direct TDA to establish a risk-based approach to inspections” and 4.8 to “Direct TDA to collect and analyze data from its regulatory programs to increase their effectiveness.” The Sunset Commission staff are correct that the Department is not prioritizing inspections based on risk. For example, pesticide overspray poses a significant risk to human health and the environment, but the Department is failing to sufficiently monitor pesticide use and hold violators accountable.

According to an April 2017 article by the Texas Observer, crop dusters have repeatedly misapplied pesticides meant for fields, causing harm to nearby people, plants and animals due to chemical drift. The approximately 900 reports on pesticide drift statewide TDA received between 2013 to 2016 document the adverse impacts of inappropriately applied pesticides on the health and livelihoods of Texans. These complaints reported that pesticide exposure caused asthma attacks, bleeding gums, headaches, burning rashes, vomiting and diarrhea. In addition, thousands of acres of crops have been lost to pesticide drift, and herds of livestock exposed to this drift can be unsellable to the market.

But, according to the Observer, despite an increase in the number of complaints from 2015 to 2016, enforcement actions by TDA decreased by 23 percent. “In many cases, TDA imposes only paltry fines on pilots and companies that repeatedly violate the law. Serial offenders are simply

allowed to keep spraying. Though TDA's enforcement has been light for years, it's gotten even lighter under Agriculture Commissioner Sid Miller. Despite a more than \$1 million increase in funding for the pesticide program in 2016, the number of enforcement actions dropped by 23 percent from 2015 to 2016, even though the number of complaints increased."

To address the issues of pesticide drift confronting Texans, we agree with Recommendation 4.5 for TDA to prioritize high risk areas when scheduling inspections. Recent reports of violations should contribute directly to assessing this risk so that violations may be resolved promptly. Recommendation 4.8 to assess TDA activities from a data-based approach will notify agency inspectors and regulators on areas that need to be strengthened, further characterizing risk in priority areas.

Any Alternative or New Recommendations on This Agency:

To mitigate unnecessary pesticide exposure, we recommend that TDA:

- Establish stronger reporting of pesticide applications and require all licensed applicators to report when, where and how many pounds of pesticides they used into an online database.
- Increase the maximum daily fine for pesticide violations from \$5,000 to \$25,000 to deter misapplication and repeat offenses. In 2011, upon recommendation by the Sunset Commission, the Legislature raised maximum fines for the Texas Commission on Environmental Quality to \$25,000. Giving TDA similar authority would allow the Department to better hold violators accountable.
- Require a minimum of one mile buffer zone free of pesticide application around sensitive areas such as schools, day care centers, hospitals, neighborhoods, pollinator habitat, and waterways.
- Supply guidelines on temperature and wind speed conditions for pesticide spraying operations to prevent chemical drift.

My Comment Will Be Made Public: I agree