

ARIZONA STATE SENATE
RESEARCH STAFF



Ref. Birk
(302)

LEAH BIRK

LEGISLATIVE RESEARCH ANALYST
COMMERCE & ECONOMIC
DEVELOPMENT COMMITTEE
Telephone: (602) 926-3171
Facsimile: (602) 926-3833

TO: JOINT LEGISLATIVE AUDIT COMMITTEE
Senator Robert Blendu, Chair

DATE: November 29, 2007

SUBJECT: Sunset Review of the Arizona Structural Pest Control Commission

Attached is the final report of the sunset review of the Arizona Structural Pest Control Commission, which was conducted by the Senate Commerce and Economic Development and House of Representatives Commerce Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Janet Napolitano

President of the Senate
Senator Timothy Bee

Speaker of the House of Representatives
Representative James P. Weiers

Senate Members
Senator Barbara Leff, Cochair
Senator Ken Chevront
Senator Pamela Gorman
Senator Richard Miranda
Senator Jay Tibshraeny

House Members
Representative Rich Crandall, Cochair
Representative Kirk Adams
Representative Mark DeSimone
Representative Robert Meza
Representative Michelle Reagan

Miscellaneous
Arizona Structural Pest Control Commission
Office of the Auditor General
Arizona State Library, Archives & Public Records

Senate Majority Staff
Senate Research Staff
Senate Democratic Staff
Senate Resource Center

House Majority Staff
House Research Staff
House Democratic Staff
Chief Clerk

LB/jas
Attachment

**Senate Commerce and Economic Development and
House of Representatives Commerce
Committee of Reference Report**

ARIZONA STRUCTURAL PEST CONTROL COMMISSION

Background

The Joint Legislative Audit Committee assigned the sunset review of the Structural Pest Control Commission (SPCC) to the Senate Commerce and Economic Development and House of Representatives Commerce Committee of Reference (COR). Pursuant to A.R.S. § 41-2951 et seq., the Office of the Auditor General (OAG) completed a performance audit.

The SPCC was established in 1988 to protect the public from chemical harm and from the harm caused by inadequate or improper structural pest control. Structural pest control includes controlling public health pests, aquatic pests, household pests, wood-destroying insects, fungi and weeds. SPCC's mission is to advocate and promote, through education, training and enforcement, the safe application of pest control technologies, which will result in the maximization of the health and safety of Arizona's residents and the protection of their property and the environment.

To fulfill its mission, the SPCC: 1) licenses pest control businesses, applicators and qualifying parties; 2) conducts investigations and hearings concerning potential violations of statute or administrative rule; 3) disciplines licensees that have committed violations; and 4) inspects pest control companies to protect the public from improper pest control. By performing these duties, the SPCC also meets its responsibility under the provisions of the federal Insecticide, Fungicide and Rodenticide Act, which grants states the primary responsibility for enforcing pesticide regulation. In addition, statute requires a pest control company, each time it inspects or treats a structure for termites, to submit a Termite Action Registration Form to the SPCC within 30 days. The SPCC maintains the information in a database that is made available to the public upon request.

The Commission is comprised of seven members, of which three are industry members with at least five years of structural pest control experience, three are public members who have had no involvement with the industry for at least five years, and one has at least a baccalaureate degree and is an entomologist, plant pathologist, toxicologist, medical doctor, osteopathic doctor or individual with a public health or occupational health degree. The Governor appoints all seven members for no more than two consecutive three-year terms.

The Commissioners appoint an Executive Director to oversee the SPCC's day-to-day operations. In FY 2005-2006, the SPCC's total revenue was approximately \$3.4 million and the SPCC Fund (Fund), which contains revenues derived principally from licensing fees and charges for services, had approximately \$3.2 million at the end of the fiscal year. The SPCC deposits 90 percent of its fees into the Fund and remits the remaining 10 percent to the state General Fund. In FY 2005-2006, the SPCC remitted \$423,588 to the state General Fund.

A.R.S. § 41-3008.07 stipulates the SPCC is to terminate on July 1, 2008.

COR Sunset Review Procedures

The COR held one public hearing on Tuesday, October 30, 2007, to review the performance audit prepared by the OAG and to receive public testimony. Presentations were given by the OAG and by the SPCC.

The presentation given by the OAG summarized the findings and recommendations of the Auditor General as follows:

Finding 1: Commission should improve inquiry and complaint processing.

Recommendations:

1. Establish internal time frames.
2. Ensure that complaints are processed within 180 days.
3. Monitor the progress of investigations.
4. Ensure the SPCC has sufficient staff.
5. Establish and implement policies regarding: violations that staff can handle; the definition of willful and repeated violations; and documentation of staff and licensee actions.

Finding 2: Commission needs to better monitor inspections.

Recommendations:

1. Fully implement the revised inspection plan.
2. Better monitor inspection activity by following the procedures implemented in January and generating and reviewing monthly inspection reports.
3. Finalize the revision to the inspection manual.
4. Implement revised inspection forms.
5. Train staff on revised materials.

Finding 3: Commission should further improve its information management systems.

Recommendations:

1. Continue with improvement efforts.
2. Develop needed management reporting capabilities.
3. Ensure the accuracy of information in SPCC databases.
4. Make complaint history information available to the public on the SPCC website.

In response to the presentation by the OAG, Jack Root, Interim Executive Director of the SPCC, provided information regarding the SPCC and answered questions posed by the COR. He reported that the SPCC staff agreed with the audit and that many of the recommendations had already been implemented.

In addition, the COR heard testimony from several members of the structural pest control industry and from the Institute for Justice. The opinion of those who testified was divided regarding whether the SPCC should be continued.

COR Recommendations

The COR recommends that the Structural Pest Control Commission be terminated and that any related statutes be repealed by bill, if necessary.

Attachments

1. Meeting notice
2. Memo to COR members regarding sunset process
3. Minutes of COR hearing
4. Auditor General Report Highlights, August 2007, Report No. 07-05

REVISED**REVISED****REVISED**

Interim agendas can be obtained via the Internet at <http://www.azleg.state.az.us/InterimCommittees.asp>

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE COMMERCE AND ECONOMIC DEVELOPMENT AND HOUSE COMMERCE COMMITTEE OF REFERENCE

Date: Tuesday, October 30, 2007

Time: 2:30 P.M.

Place: SHR 109 (Note Room Change)

AGENDA

1. Call to Order
2. Opening Remarks
3. Sunset Review of Arizona Structural Pest Control Commission
 - Presentation by Auditor General
 - Response by Structural Pest Control Commission
 - Public Testimony
 - (No more than 3 minutes per speaker)
 - Discussion
 - Recommendations by the Committee of Reference
4. Adjourn

Members:

Senator Barbara Leff, Co-Chair
Senator Ken Chevront
Senator Pamela Gorman
Senator Richard Miranda
Senator Jay Tibshraeny

Representative Rich Crandall, Co-Chair
Representative Mark DeSimone
Representative John McComish
Representative Robert Meza
Representative Michele Reagan

10/26/07

sp

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602)926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA STATE SENATE
RESEARCH STAFF



TO: MEMBERS OF THE SENATE COMMERCE &
ECONOMIC DEVELOPMENT AND HOUSE
COMMERCE COMMITTEE OF REFERENCE

LEAH BIRK
LEGISLATIVE RESEARCH ANALYST
COMMERCE & ECONOMIC
DEVELOPMENT COMMITTEE
Telephone: (602) 926-3171
Facsimile: (602) 926-3833

DATE: October 25, 2007

SUBJECT: Sunset Review – Arizona Structural Pest Control Commission
Public Hearing – October 30, 2007, at 2:30 p.m. in SHR 109

The Arizona Structural Pest Control Commission (SPCC) is scheduled to sunset July 1, 2008. The Joint Legislative Audit Committee (JLAC) assigned the sunset review to the Committee of Reference (COR) comprised of members of the Senate Commerce and Economic Development Committee and the House of Representatives Commerce Committee. JLAC also directed the Auditor General (OAG) to conduct a performance audit of the SPCC. The COR will hold a public hearing on October 30, 2007, to review the performance audit and sunset factors, to hear public testimony and to adopt recommendations.

The following is an explanation of the sunset review process, the items contained in this packet and recent activities at the SPCC.

Sunset Factors

Section 41-2954, Arizona Revised Statutes, requires the COR to consider certain factors in deciding whether to recommend continuance, modification or termination of an agency, board or commission. Twelve of these factors are addressed in the performance audit. The agency is required to submit to the COR responses regarding four additional sunset factors (Attachment A). Please note the following:

- Although the SPCC is required to provide to the COR answers to only 4 additional sunset factors, it also provided answers to the other 12 sunset factors. All submitted responses are included in Attachment A.
- On 9/21/07, SPCC revised its answer to the first of the four additional sunset factors and resubmitted the answers to all four additional sunset factors. The revised submission is included in Attachment A.
- The SPCC submitted its most recent Licensing/Enforcement Annual Report to the U.S. EPA, the State Strategic Plan and the Licensing Timeframe Compliance Report (Attachment B).

Input from Interested Parties

As part of the sunset review process, the COR seeks public input by requesting written comments from interested parties who are directly impacted by the performance of the state agency, board or commission that is under review. The COR received written comments from several

MEMORANDUM

October 25, 2007

Page 2

individuals and groups. All were unanimous in their belief that the SPCC should be continued, while some suggested the need for statutory and procedural modifications.

Attached are copies of the specific comments and recommendations as submitted by the interested parties (Attachment C). These documents will be part of the permanent record, as well as an attachment to the minutes of the official COR meeting. Interested parties that submitted written comments include:

- Michael Katz, President, Western Exterminator Company
- Norman Goldenberg, Senior Vice President, Terminix
- Ken Frederick, President, Arizona Pest Professional Organization
- Association of Structural Pest Control Regulatory Officials
- Dan Sleezer, General Manager, S.O.S. Exterminating
- Jay Ryan, Attorney at Law.

Recent Action Taken by the SPCC

On October 19, 2007, the SPCC held a public meeting to conduct a performance review of the Executive Director, Lisa Gervase, and to take possible action regarding the Executive Director's salary and/or continued employment. By a vote of four ayes, two nays and one not voting, the commissioners voted to terminate the employment of the Executive Director. The chairwoman, Commissioner Runbeck, as opposed to voting, resigned from the SPCC. This was followed by the resignations of Commissioner Black and Commissioner DeVere, both of whom had voted against the Executive Director's termination. As a result, the seven-person commission has three vacancies.

At an October 23, 2007, public meeting, the commissioners voted to appoint Michael Francis, the Director of Compliance and Enforcement, as Acting Interim Executive Director and determined a process for locating an Interim Executive Director who will serve while the search for a permanent Executive Director is conducted.

Please let me know if you need additional assistance.

LB/jas

Attachments

ATTACHMENT A

COMMITTEE OF REFERENCE

Arizona State Senate
Commerce and Economic Development Committee

Arizona House of Representatives
Commerce Committee

PERFORMANCE AUDIT

Pursuant To Title 41, Chapter 27
Arizona Revised Statutes

Of The

ARIZONA STRUCTURAL PEST CONTROL COMMISSION

2007

ARIZONA STRUCTURAL PEST CONTROL COMMISSION

SUNSET FACTORS 2007

Factor 1: The objective and purpose in establishing the Commission (SPCC).

► The SPCC is responsible for protecting the public from chemical harm and harm resulting from inadequate or improper use, storage and disposal of pesticides, and inadequate inspection/identification of pests, under Arizona laws and rules. The SPCC also has primary responsibility for enforcing pesticide regulation in Arizona, under the Federal Insecticide, Fungicide, and Rodenticide Act. It meets these responsibilities by, among other things:

- Licensing, educating and regulating persons who provide pest management services.
- Conducting compliance inspections of pest management offices and vehicles, and pesticide use inspections.
- Setting standards of pest management services, providing pre-license examination training and post-license continuing education classes, investigating inquiries and complaints, and for remedying violations.

Factor 2: The effectiveness with which the Commission has met its objective and purpose and the efficiency with which the Commission has operated.

► The SPCC updated overall licensing and enforcement operations by:

- Completing the processing of about 950 complaints that had been opened between 1989-2002.
 - The SPCC collected over \$100,000 in old civil penalties and is seeking collection of about \$150,000 remaining in old civil penalties (100% is transmitted to the state general fund).
- Implementing substantial law changes that became effective in 2003.
- Amending 14 year-old rules.
- Instituting increased electronic capabilities, including:
 - Computer-based licensing examinations
 - On-line license renewals
 - On-line C.E. reporting
 - Launching a new web site
 - Creating paperless monthly meetings
 - An online system for licensees to update contact information and print licenses and renewal forms.
- Reviewing, organizing, data-entering and purging hundreds of outdated files.
- Creating an organized, streamlined filing system.

► The SPCC instituted efficient procedures and forms to process license applications for the three licenses it issues. Each license may be issued in up to eight different categories of pest management, including general pest and public health, wood-destroying insect control, weed and

right-of-way, fumigation, turf and ornamental, fungi inspection, wood-destroying insect inspection, and aquatic. It also issues temporary qualifying party licenses, branch office registrations, and continuing education provider course approval.

- The SPCC processes license applications within required time frames. There are about 7,604 Licensed Applicators, 1,303 Licensed Qualifying Parties (managers), 1,083 Licensed Businesses, 155 Branch Offices, and 150 Approved C.E. providers - a 60% increase of licensees over ten years.
 - The SPCC instituted an efficient process for obtaining Commission review and approval of all license applications, including applicator license applications that previously had been approved by SPCC staff. It is anticipated that a law change will be sought to return the responsibility for applicator license approval to SPCC staff.
- ▶ The SPCC handles its disciplinary actions consistently and appropriately, by using an enforcement action matrix and considering discipline imposed in prior similar matters when determining appropriate discipline in current cases.
- ▶ The SPCC closely monitors compliance with Commission orders to ensure that licensees meet the required stipulations and retains evidence of compliance.
- ▶ The SPCC has established procedures for licensees who provide termite related services to file Termite Action Report Forms (TARFs). The TARF database provides information to consumers and others about termite control services and termite activity at homes.
- ▶ The SPCC has improved inquiry and complaint processing by:
- Establishing written procedures and database reporting capabilities to better track and meet timeframes for completing investigations and complaints.
 - Creating a list of violations that SPCC staff can address with a Corrective Work Order as an Inquiry Investigation versus those that should be addressed by the Commission as a Complaint.
 - Ensuring that the action taken by SPCC staff to remedy violations is documented and a record of the Inquiry retained.
- ▶ Inspections are conducted at licensed offices, of pest control vehicles, and of the use of pesticides. Office inspections include reviewing licenses, pest control treatment records, pesticide labels and storage. Vehicle inspections include reviewing labels, pesticide storage, and safety equipment. Use inspections are conducted at federal facilities, schools, healthcare facilities, food handling establishments, childcare facilities, and involve both general-use pesticides and restricted-use pesticides. The inspections ensure compliance with laws, rules, pesticide labels, pesticide handling, storage, mixing, disposal and application. The SPCC has improved monitoring of inspections by:
- Establishing written procedures and inspection goals to better inform each inspector of their required tasks, priorities, and deadlines.
 - Updating database reporting capabilities to better monitor inspection progress.

- Amending inspection forms to ensure complete and consistent inspections.
- Creating written data-entry procedures to timely and accurately capture inspection data.

▶ To improve access to information, the SPCC has:

- Established priorities for I.T. projects.
- Created written data entry instructions and limited SPCC staff who perform data entry tasks.
- Updated databases to generate management reports to track information.
- Begun the search and hiring process for an additional I.T. staff member.
- Been researching options to outsource data hosting.
- Updated its new Web site to allow the public to obtain complaint history information via the Internet, for complaints adjudicated from January 2000 to the present.
- Committed to creating a new inquiry and complaint-tracking database and integrating its databases.

Factor 3: The extent to which the Commission has operated within the public interest.

▶ Licensing pest management professionals ensures they possess the minimum knowledge and skills to properly perform pest management services.

▶ The continuing education courses provide updated information to licensees about laws, rules, procedures and technical aspects of pest management to help them maintain current competence to properly perform pest management services.

▶ Through its Web site, the SPCC provides all of the information and resources that the public and the pest management industry need about the agency, its functions, and pest management services.

- As of July 31, 2007, this information includes complaint history of licensees from 2000 to the present, by retrieving meeting minutes for the specific licensee desired. This search method will be more streamlined after the SPCC creates a new complaint-tracking database.

Factor 4: The extent to which rules the Commission adopted are consistent with the legislative mandate.

▶ The SPCC has adopted all rules required under its statutes.

▶ After many attempts to amend its rules that were 14 or more years old, the SPCC created a first draft of new rules in January 2005 and persevered until the rules were adopted in April 2007.

- Minor changes to these new rules have come to light, from SPCC staff and the pest management industry, over the past few months while implementing the rules. This is not surprising, given the magnitude of the recent rule promulgation project. The SPCC

opened a new rulemaking docket in May 2007, and anticipates completing changes after the 2008 Legislative Session.

Factor 5: The extent to which the Commission has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

► The SPCC submitted a rule package to the Governor's Regulatory Review Council (GRRC) in November 2006, which were approved by GRRC and became effective in April 2007.

► The SPCC took several steps to inform and involve the public and stakeholders in the process, in addition to the legally required notices of monthly public Commission meetings and the notices to the Secretary of State for posting in the *Arizona Administrative Register*. These steps included:

- February 2003: new Executive Director began attending industry meetings for input, and sought input from Commissioners and Staff.
- October 2003, October 2004, August 2005, October 2006: mailed notices to industry members.
- October 2003-November 2006: posted monthly meeting agendas and notices, including discussion of rule changes, on the SPCC Web site.
- January 2005: began posting outline of rules discussion on Web site. First draft of rule changes was circulated.
- January 2005-July 2006: sent e-mails to stakeholders about rule changes and stakeholder meetings.
- June 2005: began placing rule drafts on Web site.
- December 2005: Cross-Reference sheet that compared existing rules with proposed new rules was posted on the Web site with the draft of rules.
- December 2005 – July 2006: held 8 rules stakeholder meetings. Discontinued meetings when no one attended.
- July 25, 2006 and August 1, 2006: held two days of Informal Public Comment Hearings (in addition to discussion at several regular monthly Commission meetings). Commission received and considered industry association's written comments, written comments from two licensed businesses, and verbal comments.
- July 31, 2006: Industry association sent an e-mail to industry members that the SPCC wanted to hear from them.
- September 8, 2006: Commission's monthly public meeting notice announced the rules scheduled for the GRRC meeting agenda.
- November 2006: Commission's Formal Public Comment Hearing.

Factor 6: The extent to which the Commission has been able to investigate and resolve complaints within its jurisdiction.

► The SPCC has sufficient authority to investigate and adjudicate complaints.

- An investigation begins as an “inquiry” or “complaint”, depending on the information that the SPCC has at the time of opening an investigation.

- An inquiry is a threshold level investigation that is limited in scope and completed in less time than a complaint investigation. Afterward, the SPCC can close the inquiry if there is no violation or if the matter is not within the SPCC’s jurisdiction. If there is a minor violation, the SPCC may issue a Corrective Work Order.

- A complaint is a thorough investigation that takes at least 180 days to complete. Afterward, the complaint is presented to the Commission for adjudication. The Commission can impose: revocation, suspension, probation, a civil penalty, cease & desist order, additional education, a non-disciplinary advisory notice, or seek injunctive relief. For imminent health, safety, welfare threats, the SPCC can impose an interim summary suspension order.

- Commission orders typically are issued in a stipulated Consent Agreement and Order, or after a formal hearing conducted by the Office of Administrative Hearings.

Factor 7: The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under enabling legislation.

- ▶ The SPCC has full authority to enforce its statutes. The Arizona Attorney General has full authority to act as the SPCC’s legal advisor and prosecute SPCC complaints.

Factor 8: The extent to which the Commission has addressed deficiencies in the enabling statutes, which prevent it from fulfilling its statutory mandate.

- ▶ Substantial law changes were implemented in 2003, and minor changes were implemented in 2004 and 2005. In 2006, changes were made pertaining to a weed control license exemption, a utility worker license exemption, and pre-notification of pesticide applications at childcare facilities.

- ▶ There are no deficiencies in the SPCC’s statutes that prevent it from fulfilling its statutory mandate.

Factor 9: The extent to which changes are necessary in the Commission’s laws to adequately comply with the factors listed in the sunset review statute.

- ▶ There are no statutory changes needed to adequately comply with the sunset factors.

Factor 10: The extent to which the termination of the Commission would significantly harm the public health, safety, or welfare.

- ▶ Terminating the SPCC could significantly harm the public health, safety, welfare, and the environment. The inspections conducted by the SPCC are a critical activity to help detect and

prevent hazardous situations and financial losses. Without regulating the pest management industry and investigating alleged pesticide misuse by unlicensed persons, Arizona citizens would have little assurance that a pest management professional has adequate experience and training to safely and properly perform pest management services.

► By definition, pesticides (including insecticides, fungicides, rodenticides, termiticides, etc.) kill things, hence the suffix “cide” (i.e. “homicide”), means to kill. These chemicals, if misused pose significant hazards. Therefore, they carry toxicity category words, such as “caution, “warning” or “danger”.

- Although pesticides are useful to society because they kill potential disease-causing organisms and insects, weeds, and other pests; without effective regulation and control, exposure to these potentially toxic substances can result in damage to human health, property, and the environment. While pesticides can negatively affect the health of the average adult, children are potentially more susceptible to the negative effects of pesticide exposure since their bodily systems are still maturing and do not provide the same level of protection as an adult's.¹ Persons with chemical sensitivities or chronic respiratory illnesses, such as asthma or allergies, are also more susceptible to the damaging effects of pesticide exposure. If used improperly, certain pesticides also can contaminate soil and water, endanger animals and wildlife, and damage crops and other property.

► The Agency's licensing and regulatory functions, described above, protect the public and environment. Eliminating competency requirements, oversight, education and training of industry and consumers, and regulation of licensees and non-licensees, will cause harm to health, property and the environment, and cause financial losses as a result.

► Without the SPCC to carry out these functions, pest management related issues might be completely handled by the U.S. EPA, resulting in a loss of local control over the public and environmental protections. There is no other state or local regulatory control over these issues. Moreover, the EPA's jurisdiction is limited. For example, the EPA has no interest in areas such as termite pretreatment inspections, an area of great Arizona consumer interest.

► Without the Agency's inspection and complaint resolution process, consumers and industry members would not have access to an inexpensive and timely means of resolving problems with pest management licensees.

- No other agency provides the number and level of continuing education courses that the SPCC has provided. The resources spent to prepare and conduct education courses, in conjunction with educational compliance inspections, have proven effective in reducing investigations and complaints from about 450 in 2004, to 250 in 2006.

¹ A heartbreaking example is the recent case of a two-year old girl who died on July 18, 2007 in Lubbock, Texas from exposure to Phostoxin, a pesticide that releases a toxic gas when in contact with moisture (reported in *khou.com* by the Associated Press).

► The SPCC provides “one-stop shopping” to consumers and industry members for pest management, licensing, regulation, education, training, and awareness. Every call is returned within about 24 hours. Every email is answered within about 72 hours. Any customer who does not get full satisfaction at the most direct staff level, has easy access to supervisors, managers, and the Executive Director. One or more staff members can be available on a moment’s notice to provide assistance when needed, even before or after normal working hours. Examples of this level of assistance have included: (1) helping a widow with licensing upon the untimely death of her husband who held the licenses to run the family pest management business; and (2) seeking to help a pest management licensee with a possible pesticide spill after a traffic accident.

► Significant cases:

- (1) The SPCC took swift action in 2006 upon learning that one of its licensees was arrested for stealing from customers. In that case, the business license, qualifying party’s license, and applicator’s license ultimately were revoked.
- (2) In a case that began as an office inspection and was investigated and adjudicated in 2005-2006, the SPCC revoked a business license, qualifying party’s license and applicator’s license when the investigation revealed that hundreds of consumers did not receive proper termite pretreatments because the licensees were not purchasing sufficient termiticide to do the jobs they claimed were done.
- (3) In a complaint that was adjudicated in 2003 involving a company that misapplied pesticides at schools’ food-handling areas, the SPCC imposed a significant civil penalty, and required the licensee to report to the SPCC all pesticides applications at schools for 30 months.
- (4) A complaint that was adjudicated in 2001 involving misuse of pesticides at an Arizona DPS office in northern Arizona that resulted in the death of one or more pets, the SPCC suspended the licenses, followed by a year probation, obtaining additional education and paying high civil penalties.

► There also may be a negative impact on interagency service agreements with other state agencies and contracts with private vendors, such as the Attorney General’s Office, Office of Administrative Hearings, General Accounting Office, Department of Administration Rules Consultant, Exam administration vendor, and Exam writing consultants.

Factor 11: The extent to which the level of regulation exercised by the Commission is appropriate and whether less or more stringent levels of regulation would be appropriate.

► The level of regulation is appropriate and provides adequate public protection.

Factor 12: The extent to which the Commission has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

► The SPCC has used private contractors to administer all license exams, assist with editing exams, assist with promulgating rules, for government liaison services, and some data entry services. The SPCC anticipates obtaining a private contractor to help create technical and user documentation for some of its databases.

► The SPCC advocates the use of private contractors, to complete one-time projects and help perform tasks during times of high demand.

ADDITIONAL FACTORS

1. The problem or needs the Arizona Structural Pest Control Commission (SPCC) intends to address.

▲ Possible statute changes include:

- Permit the SPCC to revise Qualifying Party experience requirements in rules.
- Permit Applicator license approval by SPCC staff.
- Amend the definition of business of structural pest control.

▲ Possible rule changes to correct or clarify some issues that have arisen since implementing the new rules that became effective in April 2007.

▲ Edit license exams and update exam study materials.

▲ Phase-in process to meet timeframe goals of completing inquiry investigations in 60 days and complaint investigations in 180 days.

▲ Create new inquiry and complaint tracking database.

▲ Integrate all databases.

▲ Evaluate staffing needs after implementing new efficiencies and processes, and pursue approval to hire more staff, if needed.

▲ Complete inspection/investigation manual.

▲ Create documentation for both technical users and end-users for all databases.

2. The SPCC's objectives and anticipated accomplishments, quantitatively and qualitatively.

▲ Licensing:

- Continue to meet all licensing timeframes.

- Continue to update licensing database to data-enter each step of the application process for every license application (“application tracking”), and easily generate management status reports.
- Add continuing education course approval applications to application tracking system.
- Encourage licensees to renew licenses online, to achieve higher than 75% usage.
- Continue to provide high quality continuing education throughout the state for licensees.
- Consider having applicants to submit license applications online.
- Edit and update license exams.

▲ Inspections:

- Track compliance with written procedures and goals.

▲ Inquiries:

- Work toward 60-day turn-around time.
- Establish list of violations that SPCC staff can resolve with a Corrective Work Order.

▲ Complaints:

- Work toward 180-day turn-around time.

▲ Databases:

- Create inquiry/complaint tracking database.
- Integrate databases.
- Create technical and user documentation.
- Outsource data handling for 24/7 access, maintenance and security.

▲ Web site:

- Add online feedback form.
- Enhance online self-help features for licensees.
- Launch Web-based TARF reporting system.
- Create efficient licensee complaint history tracking.

3. Other agencies having similar, conflicting or duplicative objectives, and how the SPCC avoids duplication or conflict with other agencies.

▲ The Registrar of Contractors (ROC) issues a ‘specialty license’ to persons engaged in installing barrier devices on structures to prevent pests such as rodents and birds, if the work exceeds the \$1,000 handy-man exemption. The SPCC licenses persons who use pesticides in conjunction with devices.

- The SPCC and ROC communicate regularly to avoid duplication of tasks and to collaborate on areas of common interest. The ROC has done an excellent job of creating

educational and outreach programs for consumers and builders. The SPCC has served on the ROC's Consumer Advisory Network, and has participated in the ROC's educational programs directed toward consumers and builders.

▲ The Board of Technical Registration licenses home inspectors. Some home inspectors also are termite inspectors.

■ There has not been any conflict or confusion, so no action has been necessary to avoid duplication or conflict. If any question arises, the two agency Executive Directors, who have enjoyed a long-term professional relationship, would easily be able to resolve any confusion.

▲ The Arizona Department of Agriculture Environmental Services Division (ADA-ESD) licenses pesticide applications in the agricultural setting, such as crop aerial applicators, in food growing areas, and in forests.

■ The SPCC and ADA-ESD have an excellent working relationship, including conducting joint training and inspections when there is overlap between rural (agricultural) and urban (structural) pesticide use issues. This relationship was fostered, in great part, to having the ADA-ESD Associate Director as a public member Commissioner on the SPCC for over three years. In January 2006, to prevent duplication or conflict pertaining to which agency had licensing jurisdiction, the two agencies created a "jurisdiction chart" that outlines the scope of work that falls within each agency's jurisdiction. The ADA-ESD, who has the sole legal jurisdiction to register all pesticides for use in Arizona, also has graciously allowed the SPCC to provide input about urban pesticide labels that have been submitted for registration in Arizona, since the SPCC is charged with ensuring that users follow those label directions.

4. The consequences of eliminating the SPCC or consolidating it with another agency.

In addition to the consequences of stated above in Sunset Factor 10, please note the following consequences.

► The SPCC has a healthy fund balance, and the amount over what would be needed to cover 6-12 months of operating expenses should be used for the benefit of consumers who receive, and pest management professionals who provide, urban pest management services. The only way to ensure the long-term integrity of these funds is to maintain the independent integrity of the SPCC. Sweeping the fund reserves from fees paid by SPCC licensees will result in the regulated population paying more into the general fund than others who are not regulated. In essence, the tax burden for SPCC licensees will be disproportionately higher than that of the general population.

● Revenue for the SPCC comes from persons who pay fees, not from taxpayer contributions, in order to maintain the functions of the regulatory agency to protect the public. As a 90/10 Agency, 90% of the revenue is used for operating expenses and 10% a year, or approximately \$300,000, is deposited in the general fund. Additionally, about

\$70,000 a year is paid to the state for the services of the Attorney General, Department of Administration, and Office of Administrative Hearings.

► Eliminating, or consolidating the agency within a mega-agency, would negatively impact the SPCC's ability to protect the public and would increase fees for licensees. Furthermore, consolidation of regulatory operations has not resulted in economies of scale, which is the sole legitimate argument for consolidation.²

► Larger consolidated boards are associated with more management levels and increased bureaucracy. In addition, other states' experiences with umbrella or consolidated boards have shown an increase in the time to process investigations and a reduction in effectively resolving complaints and violations.

► Without sufficient funds to support the SPCC activities, processing of applications and investigations and complaint adjudications will be slowed, which can increase the public's risk of harm.

► Independent boards have definite advantages in public protection over centralized boards including:

- Administrative efficiency due to fewer management levels versus those created in centralized agencies
- Less bureaucracy for the public and licensees
- Increased accountability for regulatory outcomes
- Increased ability to make decisions without political pressure
- Better control by the legislative checks and balances
- Greater control over allocation of funds and reduced potential for subsidizing other regulated professions.
- Reduced cost and timeframes in completing inspections, investigations and complaints since multiple agencies or multiple disciplines within a large agency are not competing for inspector time and expertise.

5. Attached are the SPCC's most recent Licensing/Enforcement annual report to the U.S. EPA, State Strategic Plan, and Licensing Timeframe Compliance Report, that comprise information equivalent to an annual report.

² Report on Texas Health Regulatory Programs, 2000, at http://www.hhsc.state.tx.us/Pubs/rpt_hrp_12_2000.pdf

ADDITIONAL FACTORS

1. The problem or the needs that the Arizona Structural Pest Control Commission (SPCC) is intended to address.

▲ Pursue reasonable regulation pertaining to pest management services in Arizona by working with all stakeholders to seek legislative and rule changes as issues arise, or public policy dictates.

▲ Protect public and industry health and safety, and the environment by:

- Providing education to the pest management industry to obtain voluntary compliance with regulatory requirements
- Seeking enforcement action when warranted
- Providing information to the public about pest management and regulatory requirements
- Setting appropriate minimum qualification for licensees
- Ensuring a balanced licensing process that is thorough, yet streamlined
- Having a neutral inspection program that provides compliance assistance to licensees, where inspections are conducted frequently enough to be effective, yet not overly burdensome
- Conducting thorough investigations, as efficiently as possible

▲ Providing customer service to the public and industry by:

- Timely and accurately responding to questions and requests
- Providing open and easy access to information and the agency

▲ Meeting federal mandates pertaining to licensing and enforcement of licensees to maintain state jurisdiction over these responsibilities

2. The SPCC's objectives and anticipated accomplishments, quantitatively and qualitatively.

▲ Licensing:

- Continue to meet all licensing timeframes.
- Continue to update licensing database to data-enter each step of the application process for every license application ("application tracking"), and easily generate management status reports.
- Add continuing education course approval applications to application tracking system.
- Encourage licenses to renew licenses online, to achieve higher than 75% usage.
- Continue to provide high quality continuing education throughout the state for licensees.
- Consider having applicants to submit license applications online.

- Edit and update license exams.

▲ Inspections:

- Track compliance with written procedures and goals.

▲ Inquiries:

- Work toward 60-day turn-around time.
- Establish list of violations that SPCC staff can resolve with a Corrective Work Order.

▲ Complaints:

- Work toward 180-day turn-around time.

▲ Databases:

- Create inquiry/complaint tracking database.
- Integrate databases.
- Create technical and user documentation.
- Outsource data handling for 24/7 access, maintenance and security.

▲ Web site:

- Add online feedback form.
- Enhance online self-help features for licensees.
- Launch Web-based TARF reporting system.
- Create efficient licensee complaint history tracking.

3. Other agencies having similar, conflicting or duplicative objectives, and how the SPCC avoids duplication or conflict with other agencies.

▲ The Registrar of Contractors (ROC) issues a 'specialty license' to persons engaged in installing barrier devices on structures to prevent pests such as rodents and birds, if the work exceeds the \$1,000 handy-man exemption. The SPCC licenses persons who use pesticides in conjunction with devices.

- The SPCC and ROC communicate regularly to avoid duplication of tasks and to collaborate on areas of common interest. The ROC has done an excellent job of creating educational and outreach programs for consumers and builders. The SPCC has served on the ROC's Consumer Advisory Network, and has participated in the ROC's educational programs directed toward consumers and builders.

▲ The Board of Technical Registration licenses home inspectors. Some home inspectors also are termite inspectors.

■ There has not been any conflict or confusion, so no action has been necessary to avoid duplication or conflict. If any question arises, the two agency Executive Directors, who have enjoyed a long-term professional relationship, would easily be able to resolve any confusion.

▲ The Arizona Department of Agriculture Environmental Services Division (ADA-ESD) licenses pesticide applications in the agricultural setting, such as crop aerial applicators, in food growing areas, and in forests.

■ The SPCC and ADA-ESD have an excellent working relationship, including conducting joint training and inspections when there is overlap between rural (agricultural) and urban (structural) pesticide use issues. This relationship was fostered, in great part, to having the ADA-ESD Associate Director as a public member Commissioner on the SPCC for over three years. In January 2006, to prevent duplication or conflict pertaining to which agency had licensing jurisdiction, the two agencies created a "jurisdiction chart" that outlines the scope of work that falls within each agency's jurisdiction. The ADA-ESD, who has the sole legal jurisdiction to register all pesticides for use in Arizona, also has graciously allowed the SPCC to provide input about urban pesticide labels that have been submitted for registration in Arizona, since the SPCC is charged with ensuring that users follow those label directions.

4. The consequences of eliminating the SPCC or consolidating it with another agency.

In addition to the consequences of stated above in Sunset Factor 10, please note the following consequences.

► The SPCC has a healthy fund balance, and the amount over what would be needed to cover 6-12 months of operating expenses should be used for the benefit of consumers who receive, and pest management professionals who provide, urban pest management services. The only way to ensure the long-term integrity of these funds is to maintain the independent integrity of the SPCC. Sweeping the fund reserves from fees paid by SPCC licensees will result in the regulated population paying more into the general fund than others who are not regulated. In essence, the tax burden for SPCC licensees will be disproportionately higher than that of the general population.

■ Revenue for the SPCC comes from persons who pay fees, not from taxpayer contributions, in order to maintain the functions of the regulatory agency to protect the public. As a 90/10 Agency, 90% of the revenue is used for operating expenses and 10% a year, or approximately \$300,000, is deposited in the general fund. Additionally, about \$70,000 a year is paid to the state for the services of the Attorney General, Department of Administration, and Office of Administrative Hearings.

► Eliminating, or consolidating the agency within a mega-agency, would negatively impact the SPCC's ability to protect the public and would increase fees for licensees. Furthermore, consolidation of regulatory operations has not resulted in economies of scale, which is the sole legitimate argument for consolidation.¹

► Larger consolidated boards are associated with more management levels and increased bureaucracy. In addition, other states' experiences with umbrella or consolidated boards have shown an increase in the time to process investigations and a reduction in effectively resolving complaints and violations.

► Without sufficient funds to support the SPCC activities, processing of applications and investigations and complaint adjudications will be slowed, which can increase the public's risk of harm.

► Independent boards have definite advantages in public protection over centralized boards including:

- Administrative efficiency due to fewer management levels versus those created in centralized agencies
- Less bureaucracy for the public and licensees
- Increased accountability for regulatory outcomes
- Increased ability to make decisions without political pressure
- Better control by the legislative checks and balances
- Greater control over allocation of funds and reduced potential for subsidizing other regulated professions.
- Reduced cost and timeframes in completing inspections, investigations and complaints since multiple agencies or multiple disciplines within a large agency are not competing for inspector time and expertise.

¹ Report on Texas Health Regulatory Programs, 2000, at http://www.hhsc.state.tx.us/Pubs/rpt_hrp_12_2000.pdf

ATTACHMENT B

ARIZONA STRUCTURAL PEST CONTROL COMMISSION
FFY06 Consolidated Cooperative Agreement Final Report

Licensure (Certification) & Training Program Work Plan

1 Licensing Process

The SPCC continued to maintain a user-friendly, streamlined and timely process for license applications, approving applicants to take license examinations and issuing or denying licenses within its rule-required time frames.

2. Continuing Education

The SPCC provided at least seven all-day continuing education (CE) courses throughout the state, for free, to its licensees. It also provides at least one initial license training (ILT) course each month at locations throughout the state. CE and ILT schedules are on the agency's website, with easy to access responding via telephone and email (480-CEU-SPCC or ceu@sb.state.az.us; and 480-ILT-SPCC or ilt@sb.state.az.us).

The SPCC also has over 100 approved CE providers. CE attendance is reported to the SPCC via its on-line reporting tool that interfaces with the on-line license renewal system.

3. Monitoring

SPCC Staff members have monitored/participated in 155 C.E. course hours throughout FFY06. There is insufficient data to opine about specific C.E. courses. Overall, comments were that C.E. courses offered by the SPCC and a handful of approved C.E. providers were excellent. Most other C.E. courses were adequate. The SPCC is re-evaluating all CE courses as the providers submit new applications for approval to ensure relevant information is included in all programs. The SPCC took no actions against C.E. providers in FFY06.

4. Examination services

The SPCC continues to use a contracted vendor to provide computer based testing at several sites throughout the state.

5. State Plan

The SPCC is minimally involved in CTAG related events. The SPCC provided input to

the Arizona Department of Agriculture who has responsibility for the state plan. Exams and study materials are constantly evaluated to ensure proper applicability and changes are made as necessary

6. Examinations

The SPCC reviewed and amended exam questions on an as-needed basis, to ensure continuing relevance. Informal and ongoing exam validation activities continued in FFY06. The SPCC updated the study material list for all exams; advertised the need to study the study materials through the license application process, discussions with applicants and licensees, and web site notice; provided monthly public reports about the exams and exam process, including the number of exams administered, passing rates, trends, statistics, exam content issues, and logistical issues.

The SPCC (via the testing vendor) continue to provide score reports to exam takers that included the exam blueprints and the number of questions answered correctly/incorrectly by content area.

7. Compliance

The SPCC continued to maintain reports of enforcement actions and the nature of the violations involved. The types of violations remained fairly standard from prior years and questions to educate applicants and test their knowledge about these areas were incorporated into the exams between early 2003 and into the FFY06. The SPCC has found that educating industry members about recurring problems has been more effective through its monthly meeting agendas and minutes, and C.E. courses that the SPCC sponsors or at which SPCC employees participate. On a monthly basis throughout FFY06, the SPCC listed enforcement actions and the type of violation in a narrative form on meeting agendas and minutes. The SPCC continues to conducted full-day education courses in 2006, incorporating common problems and ways to avoid them. The SPCC also participated in education courses in November, December, January, March, April, July and August totaling 70 hours where attendees were informed of updates and current issues. Monthly, the SPCC conducts initial licensure training (exam preparation) and incorporates common problems into those classes. 72 hours of instruction was provided in FFY06.

Training and education regarding following label directions, laws, and rules; pest identification; calibration, application, and formulations; safety and disposal continue to be areas of need. Proper hiring, training, equipping and supervision by businesses and qualifying parties is needing increasing attention. To accomplish this the SPCC is continuing to conduct courses during FFY06 addressing these issues.

8. Initial License Training Classes

See above (CE) discussion.

9. Examination study materials

These continue to be provided at the SPCC's cost. A study material and price list is on the agency's website.

10. License examinations

See above (Examination services) discussion.

11. Testing Centers

The SPCC opted not to conduct an audit of testing locations as it has in the two prior years, but rather focused on evaluating and revising the testing vendor contract, issuing a new request for proposals, obtaining the procurement training necessary to be approved as evaluators, and evaluate all proposals received. Based on the evaluation, the state procurement office contracted again with Metro Institute for computer based testing services for the SPCC, beginning 3/1/07.

12. IPM

As of October 2004, the Arizona Department of Environmental Quality has taken the lead with respect to IPM in schools. The SPCC provides training and information to consumers and the industry as requested. The SPCC also provided consumer and industry notices on its web site pertaining to IPM steps that can be taken to control roof rats, mosquitoes, and bark beetles. The SPCC stands willing to participate in IPM programs as identified and requested.

13. Participation

The SPCC attended the ASPCRO mid-year meeting in March 2006 and annual meeting in August 2006. The SPCC also attended the May 2006 Western States Regional (and SFIREG) meeting. The SPCC participated in the PIRT course in September 2006. The SPCC continues to evaluate courses and meetings and will participate as needed and allowed.

Enforcement Work Plan

1. Use Inspections

The SPCC completed **1081 "use" inspections** (vastly more than the 80 targeted). **28** of these were **"for cause" inspections** (above the 6 targeted). These 1081 do not include approximately 415 office inspections and 715 vehicle inspections that are, in part, "use"

inspections because pesticide storage and/or disposal is inspected, but may not meet the EPA's criteria of a use inspection. Of the approximate 415 office inspections conducted, 22 also were certified applicator/restricted use pesticide inspections.

The 1081 use inspections were in the following categories:

The SPCC conducted **4 Federal Facilities inspections.**

Wood-destroying insect inspections (639, now including termite pretreatment "tag" inspections). This is more than the 10 targeted.

General/Public health inspections (359). This includes:

Food establishments (19). This exceeds the 10 targeted.

Healthcare facilities/antimicrobial inspections (19). This is more than the 10 targeted.

Schools (11), This exceeds the 10 targeted.

Fumigation inspections (1).

Weed/Right-of-way inspections/Aquatic (64). This includes:

Golf Course/Aquatic (20). The SPCC targeted 20 use inspections of golf course/aquatic facilities.

Turf and Ornamental inspections (18).

2. "Inquiries"

Beginning in mid-September 2003, the SPCC had the legal authority to open matters as "Inquiries". An inquiry is information of possible violations of laws or rules. The SPCC opened and investigated 175 inquiries in FFY2006. Many were closed without becoming complaints for various reasons, including clearly no evidence of a possible violation, lack of subject matter jurisdiction, etc. An investigation was conducted on each inquiry to make a threshold level determination of whether the matter should become a complaint, closed, or handled in a less formal manner (such as educational letter). Some of these were then opened as complaints. There were 70 reported complaints in FFY2006.

3. Ag Pesticides

The SPCC did not detect any agricultural-labeled pesticides used in urban areas.

4. Health Claims

The SPCC continued to look for the use of antimicrobial (public health claim) products while conducting inspections/investigations. None of these products, nor unregistered products, were found in use at locations inspected in FFY05.

5. Federal Credentials

SPCC is committed to obtaining federal credentials for our inspection/investigative staff. The SPCC currently has three staff members with federal credentials.

6. Repeat Violator Percentage, Complying Actions Percentage, Efficiency Measure

Reported on separate form.

7. Misuse by unlicensed persons

The SPCC uses misuse as an aggravating factor in determining civil penalty in these cases, or refers to EPA as appropriate.

12/22/06 MF

Pesticide Enforcement and Applicator Certification Cooperative Agreement Accomplishment Report

State Arizona SPCC	Fiscal Year FFY 2008	Reporting Period 10-01-05 through 09-30-06	FFY06 Targets <input type="checkbox"/> Cooperative Agreement Only <input checked="" type="checkbox"/> State Activities Only
-----------------------	-------------------------	---	--

Enforcement Accomplishments This Reporting Year	Agricultural		Nonagricultural		Experi- mental Use	Producing Estab- lishment	Market- Place	Imports	Exports	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
	Use	For Cause	Use	For Cause								
Total Inspections Conducted			1001	22 (all were also Uses)						2		1003
Federal Facilities												
How many addressed the following												
a) WPS Tier I Compliance Monitoring Inspection												
b) WPS Tier II Compliance Monitoring Inspection												
Samples Collected	Physical											
	Documentary											
Civil Complaints Issued 1				70								
Criminal Complaints Referred				0								
Administrative Hearings Conducted				9								
License/Certificate Suspension				21								
License/Certificate Revocation				26								
License/Certificate Conditioning or Modification ("Probation")				5								
Number of Warnings Issued				92								
Stop-Sale, Seizure, Quarantine, or Embargo ("Cease & Desist")				7								
Cases Forwarded to EPA for Action				0								
Other Enforcement Actions 2				29								
Number of Cases Assessed Fines ("Civil Penalties")				66								

1 These do not include 175 "inquiries" investigated in this reporting period (see narrative report).

2 This does not include corrective action required after inspections, for which SPCC provides 10 days to comply, or else Complaint is filed.

Pesticides Enforcement Cooperative Agreement Output Projections

State: Arizona SPCC	Fiscal Year: 2006				Project Period: 10-01-05 through 09-30-06							
Enforcement Projections	Agricultural		Nonagricultural		Experi- mental Use	Producing Estab- lishment	Market- Place	Imports	Export	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
	Use	Follow up	Use	Follow up								
Inspections Projected for Fiscal year			79	6						20		105
Samples Projected for Fiscal year												

CERTIFICATION AND TRAINING ACCOMPLISHMENTS THIS REPORTING PERIOD

State: Arizona SPCC	Fiscal Year: 2006					Reporting Period: 10-01-05 through 09-30-06								
						SPCC "B5"		SPCC "B9"	SPCC "B3"	SPCC "B2", "B4" "B7", "B8"	SPCC "B1"			
Certification Accomplishments	Private Applicators	Commercial Applicators	Agricultural		Forest	Ornamental and Turf	Seed treatment	Aquatic	Weed/ Right of Way	Ind., Insti., Structural	Gen/Pub Health	Regulatory	Demonstra- tion and research	Other
			Plant	Animal										
Training Sessions participated in or Monitored (listed in hours)		155				11		1	22	25	36	60		0
Applicators (Individuals) Certified 3		1150				153		46	360	558	760			
Applicators Recertified ("Renewed")		6150												
Total Applicators Holding a Valid Certification as of Sept. 30th		6691												
Recertification Period (in years)		1				1		1	1	1	1			

EPA Form 5700-33H

3 This is the number of new individuals licensed/certified as applicators in this reporting period. The specific categories total more than this number because many applicators are licensed in more than one category.

Pesticides Enforcement and Applicator Certification Cooperative Agreement Accomplishment Report

State Arizona SPCC	Fiscal Year FFY 2006	Reporting Period 10-01-05 through 09-30-06	FFY05 Targets <input checked="" type="checkbox"/> Cooperative Agreement Only <input type="checkbox"/> State Activities Only
-----------------------	-------------------------	---	---

Enforcement Accomplishments This Reporting Year	Agricultural		Nonagricultural		Experi- mental Use	Producing Estab- lishment	Market- Place	Imports	Export	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
	Use	For Cause	Use	For Cause								
Total Inspections Conducted			80	6 (all 6 were also "Uses")						20		100
Federal Facilities			4									4
How many addressed the following												
a) WPS Tier I Compliance Monitoring Inspection												
b) WPS Tier II Compliance Monitoring Inspection												
Samples Collected Physical				75								75
Documentary												
Civil Complaints Issued			SEE	STATE	ACTIVITES	ONLY	FORM					
Criminal Complaints Referred												
Administrative Hearings Conducted												
License/Certificate Suspension												
License/Certificate Revocation												
License/Certificate Conditioning or Modification												
Number of Warnings Issued												
Stop-Sale, Seizure, Quarantine, or Embargo												
Cases Forwarded to EPA for Action												
Other Enforcement Actions												
Number of Cases Assessed Fines												



Pesticide Enforcement Outcome Measure Reporting Form

Grantee Arizona, Structural Pest Control Commission

Fiscal Year FFY06

Measure No. 1 - Repeat Violator

A. Total # of Regulated Entities Receiving Enforcement Actions	B. Total # of Entities Receiving Subsequent Enforcement Actions (i.e. subset of column A)	C. Repeat Violator Measure—B/A
173	6	.0346

Measure No. 2 - Complying Actions

D. Total # of Enforcement Actions Resulting in Verified Compliance: 243

E. Total # of Enforcement Actions (from form 5700-33H): 246

F. Complying Actions Measure—D/E: 98.7

Measure No. 3 - Efficiency

G. Grantee Pesticide Enforcement Funding: \$ 1,446,200

H. EPA Pesticide Enforcement Funding: \$ 69,500

Base Enforcement _____

Worker Protection _____

Enforcement Discretionary _____

Lab Equipment _____

I. Efficiency Measure—(G+H)/E: \$ 6,161

AGENCY SUMMARY
STRUCTURAL PEST CONTROL COMMISSION

Director Lisa Gervase, Executive Director

Phone: (602) 255-3664

A.R.S. § 32-2301 et. seq.

Mission:

To advocate, through licensure, education, compliance and enforcement, the safe application of pest control technologies that benefit the citizens of Arizona.

Description:

The Structural Pest Control Commission (SPCC) licenses and regulates pest control companies, qualifying parties, and applicators; provides education and training to applicants and licensees; and provides education and information to the public regarding pest control activities in non-agricultural settings.

Strategic Issues**Issu 1 Better protect consumers (homeowners) through responsible legislation**

The SPCC continues to work with stakeholders to foster responsible, consumer oriented legislation. Most recently, in the last legislative session the passage of HB 2341 made numerous positive changes. Two of the many changes were redefining the areas of structural pest control and, mandating that only licensed applicators may apply pesticides in schools. Efforts to better protect the public remain a strategic issue and the SPCC will continue to initiate/sponsor responsible, consumer oriented legislation in subsequent legislative sessions.

Issu 2 Ensure, through program analysis/examination, that the Commission provides statistically valid, legally defensible tests that are based on best practices and contain the most current 'field specific' content.

Examination validation along with a thorough review of all training materials and programs provided by the Commission to Qualifying Parties and Applicators preparing for licensure is scheduled to commence during this fiscal year in a phased approach contingent upon funding availability. Efforts to review and update Commission-offered tests in all categories have been completed while the function of test administration has been outsourced in compliance with HB 2189.

Issu 3 Enhance regulatory protection for consumers and improve customer service to the pest control industry.

The SPCC has effected a computer based testing program statewide through a third party contract. As noted previously, the many benefits of this initiative are statewide accessibility (convenience); test consistency, i.e., the same experience at every test site; the effective optimization of resources for better protection of the public; technology that is on the cutting edge in terms of movement towards e-government and taxpayer convenience; and, 'real time' test results. The SPCC will aggressively monitor outsourced testing to ensure appropriate quality assurance and fiscal responsibility. In another area of program operations, the SPCC is closely reviewing outsourced laboratory sampling activities with the goal of attaining an improved level of service, consumer protection, and accountability.

◆ **Goal 1** To provide accurate and efficient service to prospective and licensed businesses, applicators and qualifying parties in obtaining and maintaining licenses.

Objective 1 2007 Obj: Provide timely, efficient processing of applications.
 2008 Obj: Provide timely, efficient processing of applications.
 2009 Obj: Provide timely, efficient processing of applications.

Performance Measures:

ML	Budget	Type		FY 2005 Actual	FY 2006 Estimate	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	IP	Total applications received	3442	3500	11792	11500	11500
2	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	EF	Average calendar days from receipt of completed application to issuance or denial of certification	10	10	20	20	20
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Average calendar days from receipt of completed application to ruling on application for Qualifying Party testing	27	27	30	30	30
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Qualifying Party License renewals issued	1201	1300	1225	1200	1200
5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	OP	Total individuals or facilities licensed	7958	8200	9000	9500	9500
6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Applicator licenses renewed	5732	5990	6209	6500	6500
7	<input checked="" type="checkbox"/>	<input type="checkbox"/>	EF	Percentage of licenses processed within overall time frame	100	100	100	100	100
8	<input checked="" type="checkbox"/>	<input type="checkbox"/>	QL	Percentage of Applicator License renewals processed on line	54	60	72	75	75
9	<input checked="" type="checkbox"/>	<input type="checkbox"/>	QL	Percentage of Qualifying Party License renewals processed on line	37	60	47	75	75
10	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Percentage of Business License renewals processed on line	36	60	47	75	75

◆ Goal 2 To provide continuous quality education to the public and industry members through Structural Pest Control Commission presented or approved programs.

Objective 1 2007 Obj: To Increase and enhance training for the public and Industry members.
 2008 Obj: To Increase and enhance training for the public and Industry members.
 2009 Obj: To Increase and enhance training for the public and Industry members.

Performance Measures:

ML	Budget	Type		FY 2005 Actual	FY 2006 Estimate	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OC	Number of contact hours for initial license training taken annually from the SPCC	2640	2000	800	800	800
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Number of CE contact hours taken annually from the SPCC	12190	4000	5000	5000	5000
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Number of Education and Training contract hours provided to the Public by the SPCC	100	100	100	100	100

◆ Goal 3 To Monitor pesticide applications and ensure compliance with SPCC Laws and Rules.

Objective 1 2007 Obj: To conduct Inspections in proportion to licenses issued in each category
 2008 Obj: To conduct Inspections in proportion to licenses issued in each category
 2009 Obj: To conduct Inspections in proportion to licenses issued in each category

Performance Measures:

ML	Budget	Type		FY 2005 Actual	FY 2006 Estimate	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	OP	Total inspections conducted	2641	2,649	1645	2,780	2780
2	<input type="checkbox"/>	<input type="checkbox"/>	OP	Number of Business Licensees inspected		507	602	600	600
3	<input type="checkbox"/>	<input type="checkbox"/>	OP	Number of Applicators inspected		2136	1730	1855	1855
4	<input type="checkbox"/>	<input type="checkbox"/>	OP	Number of termite control category inspections		875	650	650	650
5	<input type="checkbox"/>	<input type="checkbox"/>	OP	Number of compliance actions undertaken as a result of all inspections		0	749	975	975
6	<input type="checkbox"/>	<input type="checkbox"/>	OP	Number of all other category inspections		390	500	500	500

◆ Goal 4 To efficiently and professionally investigate inquiries and complaints to protect and maximize the safety of the general public.

Objective 1 2007 Obj: To complete all investigations and present them to the Commission within 180 days of opening the complaint.
 2008 Obj: To complete all investigations and present them to the Commission within 180 days of opening the complaint.
 2009 Obj: To complete all investigations and present them to the Commission within 180 days of opening the complaint.

Performance Measures:

ML	Budget	Type		FY 2005 Actual	FY 2006 Estimate	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Total Inquiry investigations conducted	273	280	200	250	250
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OP	Total Complaint investigations conducted	135	150	80	100	120
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OC	Number of Consent agreements reached	194	180	90	90	90
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OC	Number of formal hearings held	27	30	10	20	15
5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OC	Percent of investigations resulting in disciplinary action	49	50	48	50	50
6	<input type="checkbox"/>	<input type="checkbox"/>	OC	Number of licenses Suspended	0	10	24	20	20
7	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OC	Number of licenses Revoked	1	1	38	20	5
8	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	IP	Total consumer and Commission generated complaints	135	150	80	100	120
9	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	EF	Average calendar days from receipt of complaint to resolution	180	180	270	200	200

ARIZONA MASTER LIST OF STATE GOVERNMENT PROGRAMS

Structural Pest Control Commission

AGENCY NAME

STRUCTURAL PEST CONTROL COMMISSION

Director: Lisa Gervase, Executive Director

Contact: Charmayne Skow Structural Pest Control Commission Phone: (602) 255-3664

SBA.0.0

A.R.S. § 32-2301 et. seq.

Performance Measures:

ML	Budget	Type		FY 2005 Actual	FY 2006 Estimate	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
✓	✓	OP	Total inspections conducted	2641	2,649	1645	2,780	2780	2780
✓	✓	EF	Average calendar days from receipt of completed application to issuance or denial of certification	10	10	20	20	20	20
✓	✓	OP	Total individuals or facilities licensed	7958	8200	9000	9500	9500	9500
✓	✓	IP	Total consumer and Commission generated complaints	135	150	80	100	120	120
✓	✓	EF	Average calendar days from receipt of complaint to resolution	180	180	270	200	200	200

SBA 0.0 Agency Summary
 STRUCTURAL PEST CONTROL COMMISSION

Lisa Gervase, Executive Director
 Phone: (602) 255-3664
 A.R.S. § 32-2301 et. seq.

Mission:

To advocate, through licensure, education, compliance and enforcement, the safe application of pest control technologies that benefit the citizens of Arizona.

Description:

The Structural Pest Control Commission (SPCC) licenses and regulates pest control companies, qualifying parties, and applicators; provides education and training to applicants and licensees; and provides education and information to the public regarding pest control activities in non-agricultural settings.

Strategic Issues

Issu 1 Better protect consumers (homeowners) through responsible legislation

The SPCC continues to work with stakeholders to foster responsible, consumer oriented legislation. Most recently, in the last legislative session the passage of HB 2341 made numerous positive changes. Two of the many changes were redefining the areas of structural pest control and, mandating that only licensed applicators may apply pesticides in schools. Efforts to better protect the public remain a strategic issue and the SPCC will continue to initiate/sponsor responsible, consumer oriented legislation in subsequent legislative sessions.

Issu 2 Ensure, through program analysis/examination, that the Commission provides statistically valid, legally defensible tests that are based on best practices and contain the most current 'field specific' content.

Examination validation along with a thorough review of all training materials and programs provided by the Commission to Qualifying Parties and Applicators preparing for licensure is scheduled to commence during this fiscal year in a phased approach contingent upon funding availability. Efforts to review and update Commission-offered tests in all categories have been completed while the function of test administration has been outsourced in compliance with HB 2189.

Issu 3 Enhance regulatory protection for consumers and improve customer service to the pest control industry.

The SPCC has effected a computer based testing program statewide through a third party contract. As noted previously, the many benefits of this initiative are statewide accessibility (convenience); test consistency, i.e., the same experience at every test site; the effective optimization of resources for better protection of the public; technology that is on the cutting edge in terms of movement towards e-government and taxpayer convenience; and, 'real time' test results. The SPCC will aggressively monitor outsourced testing to ensure appropriate quality assurance and fiscal responsibility. In another area of program operations, the SPCC is closely reviewing outsourced laboratory sampling activities with the goal of attaining an improved level of service, consumer protection, and accountability.

◆ Goal 1 To provide accurate and efficient service to prospective and licensed businesses, applicators and qualifying parties in obtaining and maintaining licenses.

Performance Measures	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
Total applications received	11792	11500	11500	11500
Average calendar days from receipt of completed application to issuance or denial of certification	20	20	20	20
Average calendar days from receipt of completed application to ruling on application for Qualifying Party testing	30	30	30	30

Qualifying Party License renewals issued	1225	1200	1200	1200
Total individuals or facilities licensed	9000	9500	9500	9500
Applicator licenses renewed	6209	6500	6500	6500
Percentage of licenses processed within overall time frame	100	100	100	100
Percentage of Applicator License renewals processed on line	72	75	75	75
Percentage of Qualifying Party License renewals processed on line	47	75	75	75
Percentage of Business License renewals processed on line	47	75	75	75
Business License renewals issued	1014	1036	1036	1036

◆ Goal 2 To provide continuous quality education to the public and industry members through Structural Pest Control Commission presented or approved programs.

Performance Measures	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
Number of contact hours for initial license training taken annually from the SPCC	800	800	800	800
Number of CE contact hours taken annually from the SPCC	5000	5000	5000	5000
Number of Education and Training contract hours provided to the Public by the SPCC	100	100	100	100

◆ Goal 3 To Monitor pesticide applications and ensure compliance with SPCC Laws and Rules.

Performance Measures	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
Total inspections conducted	1645	2,780	2780	2780

◆ Goal 4 To efficiently and professionally investigate inquiries and complaints to protect and maximize the safety of the general public.

Performance Measures	FY 2006 Actual	FY 2007 Estimate	FY 2008 Estimate	FY 2009 Estimate
Total Inquiry investigations conducted	200	250	250	250
Total Complaint investigations conducted	80	100	120	120
Number of Consent agreements reached	90	90	90	90
Number of formal hearings held	10	20	15	15
Percent of investigations resulting in disciplinary action	48	50	50	50
Number of licenses Revoked	38	20	5	5
Total consumer and Commission generated complaints	80	100	120	120
Average calendar days from receipt of complaint to resolution	270	200	200	200

Agency : STRUCTURAL PEST CONTROL COMMISSION

License Time Frames : 07/01/2006 - 06/30/2007

Compliance Level Summary Form

License, Registration, Change, Approval Type (with A.R.S. or A.A.C. cite)	Number of all applications received	Number Approved within time frame	Number Issued after pass exam(s)	Number Denied within time frame	Number acted upon outside time frame	\$ amount of fees returned	\$ amount of fees excused	\$ amount of penalties paid
Applicator Licenses - A.R.S. 32-2312	9460	9154	1452	4	0	0	0	0
NEW - A.A.C. R4-29-203	2427	2167	1189	3	0	0	0	0
RENEWAL - A.A.C. R4-29-207	6441	6412	N/A	1	0	0	0	0
BROADEN - A.A.C. R4-29-212	572	555	263	0	0	0	0	0
ACTIVATE - A.A.C. R4-29-210	20	20	N/A	0	0	0	0	0
Qualifying Party Licenses - A.R.S. 32-2314	1659	1632	106	5	0	0	0	0
NEW - A.A.C. R4-29-204	185	169	87	0	0	0	0	0
RENEWAL - A.A.C. R4-29-207	1234	1232	N/A	1	0	0	0	0
TEMPORARY - A.A.C. R4-29-208	25	24	N/A	1	0	0	0	0
TEMPORARY RENEW - A.A.C. R4-29-209	16	13	N/A	2	0	0	0	0
BROADEN - A.A.C. R4-29-212	35	31	19	0	0	0	0	0
ACTIVATE - A.A.C. R4-29-211	164	163	N/A	1	0	0	0	0
Business Licenses - A.R.S. 32-2313	1140	1139	0	2	0	0	0	0
NEW - A.A.C. R4-29-206	80	82	N/A	1	0	0	0	0
RENEWAL - A.A.C. R4-29-207	1029	1028	N/A	1	0	0	0	0
BRANCH OFFICE - A.A.C. R4-29-213	19	19	N/A	0	0	0	0	0
NAME CHANGE - A.A.C. R4-29-214	12	10	N/A	0	0	0	0	0
Continuing Education Approval (1)								
A.R.S. 32-2319 and A.A.C. R4-29-216								
TOTALS	12259	11925	1558	11	0	0	0	0

Agency Representative: Lisa Gervase

Date: 8/31/07

(1) Insufficient data to report. This was not part of the SPCC's timeframe rule until April 2007.

ATTACHMENT C

Leah Birk

From: Michael Katz [mkatz@west-ext.com]
Sent: Thursday, September 27, 2007 2:50 PM
To: Leah Birk
Subject: Sunset Review Process for the Arizona Structural Pest Control Commission

Dear Ms. Birk:

I thank you for allowing me the opportunity to comment regarding the sunset review process for the Structural Pest Control Commission. The determination from this process is an important one, both to the industry as well as the public, as it's eventual outcome will impact both concerns. I've spent 37 years as a member of the structural pest control industry, working primarily in Arizona, California and Nevada, but I've had the opportunity to work with the regulatory community for our industry throughout the country through my involvement in our national trade association.

Based on my observations and interactions with Commission staff members it appears to me that the Arizona Structural Pest Control Commission is extremely efficient in respect to daily duties and tasks. Staff members appear to be extremely conscientious and interact with industry members in a friendly and professional manner. It appears to me that the staff members are very dedicated and hard working, and understand their various responsibilities. Based on the efficiency of their operation, I'd have to say that the Executive Director is an effective and efficient manager and a strong leader. The entire staff seems to work very well together and responds well to the leadership style of the Executive Director.

My experience with the Commission members comes through observing them in their monthly meetings. They seem to be very involved in this process. They remain focused throughout the meetings as they patiently work through the various issues, and consistently exhibit strength, fairness and kindness as they deal with the people who have to come before them. There appears to be a good mix of expertise and an overall dedication to their responsibilities.

The one thing I've noticed that can be problematic is the fact that there has been no structure or mechanism to allow for on-going communication between the Commission members and staff and the industry at the regular monthly meetings. Other than individuals who appear on the agenda for various administrative issues, there is no way for the industry to ask questions nor make comments during meetings. I think this should be changed, as the ability to exchange ideas and information between the Commission members and staff and the industry will benefit all involved in the process, ultimately including the public. The way Commission meetings are currently structured, there is no opportunity for industry to ask questions nor make comments during the meeting, other than a 5-minute opportunity at the beginning of each meeting. That is really not adequate, and I believe that it prevents the Commissioners from being able to obtain valuable insights and perspectives that can aid them in the performance of their duties. Earlier this week there was a special meeting held just for the purpose of having important interchange between the Commissioners, Commission staff and the industry. The meeting came about due to some dissatisfaction on the part of some members of the industry with some of the policies of the Commission, which I believe came about because there was no mechanism in place to facilitate the type of two-way communication that would have avoided the frustrations in the first place. I think the meeting ended up being incredibly productive and positive, and I believe provided Commissioners and Staff members with information and insights that will aid them in the performance of their respective responsibilities in the future. It also served to provide industry members with a better understanding of the Commissioners and staff, and the processes under which they have to perform their various functions. It was truly a good start to an on-going, productive dialogue that will ultimately help all sides in the performance of their respective responsibilities. A broadening of perspective for everyone is a very positive thing, and in this type of a situation, a strong, positive working relationship between the regulators and the regulated will only serve to improve the finished product for all sides, including the public. It was indeed a good start, but this process needs to become a regular, continuing function.

In conclusion, I believe that the Structural Pest Control Commission should be granted the opportunity to function in the future, and that the current management and staff should be retained. With a few minor procedural adjustments, I believe the Commission will very properly fulfill the needs of both industry and the public.

9/27/2007

Thank you for the opportunity to provide this input, and for your consideration of my thoughts.

Respectfully yours,

Michael Katz, President
Western Exterminator Company



The Nationwide Pest Control Experts

The Terminix International
Company L.P.
860 Ridge Lake Boulevard
Memphis, TN 38120
901/766-1105
Fax: 901/766-1275
ngoldenberg@terminix.com

VIA ELECTRONIC MAIL

October 3, 2007

Leah Birk
Arizona State Senate
1700 W. Washington St.
Phoenix, AZ 85007

Norman K. Goldenberg
Senior Vice President
Government / Public Affairs
and Technical Services

RE: Arizona Structural Pest Control Commission Sunset Review

Dear Ms. Birk:

Thank you for the invitation to comment on the sunset review of the Arizona Structural Pest Control Commission (SPCC). Terminix International is the largest pest control company in the world operating in 46 states and the District of Columbia. We also operate in foreign countries through licensed franchise agreements. In Arizona, Terminix performs its services through five licensed business locations where we employ over 150 associates.

In my role I am intimately familiar with state laws and regulations that effect pest control businesses. While most states regulate the structural pest management through the departments of agriculture, some are regulated by departments of environmental protection, consumer protection or public health as well as state universities. Some of the state agriculture and consumer protection agencies that regulate the structural pest management industry have established strong boards or commissions within those departments to expressly oversee the industry, including California, Hawaii, Georgia, Louisiana, and North Carolina. Relative to other states, we have found that the performance of the SPCC in Arizona is a very well run organization that has given the regulated community and consumers alike a very balanced regulatory scheme.

As a member of the Arizona Professional Pest Organization (AzPPO), the state's trade association, we support the positions that have been presented by AzPPO which represent certain refinements that will allow the SPCC to operate more fluidly and with minimum delay in achieving its goal of industry regulation and consumer protection.

It has been Terminix' experience that whenever we have called upon staff or commissioners, both present and past, we have received prompt answers to our concerns and needs. We therefore would like to see the SPCC, including its staff retained and continued with a few of the minor suggestions and changes to the law submitted by the AzPPO.

Thank you again for the opportunity to comment and please be advised that I would be pleased to offer additional testimony to the Committee of Reference should that be desired.

Sincerely yours,

Norman Goldenberg

Leah Birk

From: Ken Fredrick [ken@tucsonpest.com]
Sent: Tuesday, October 02, 2007 9:05 PM
To: Leah Birk
Subject: Dear Ms. Birk sunset review letter

Dear Ms. Birk,

October 2, 2007

I appreciate the opportunity to make comments on the Spcc during the sunset review. I have been serving the people of Arizona since 1979 in the pest control industry. There have been many changes over the years and I am sure there will always be changes. I believe very strongly that the SPCC should continue into the future. I believe the agency serves the public and the industry effectively. Recently the industry association AzPPO(Arizona Pest Professional Organization) has held several meetings around the state and overwhelmingly the industry wants to see the continuation of SPCC. Recently we sent to the members of the Committee of Reference our position paper stating that fact with some changes we would like to address in the next session. I would like to add that very recently the seven Commissioners have given us the industry the opportunity to voice concerns or objectives during the commission meetings. I believe this simple change will make a difference in the relationship between the Spcc and industry. I look forward to working with the commission in the future. Thank you again

Ken Fredrick
President

Association of
Structural
Pest
Control
Regulatory
Officials

October 8, 2007

Leah Birk
Arizona State Senate
1700 W. Washington St.
Phoenix, AZ 85007

Dear Ms. Birk:

Thank you for the opportunity to provide comment on pending sunset review of the Arizona Structural Pest Control Commission. Our organization, the Association of Structural Pest Control Regulatory Officials, exists to promote the protection of the health and welfare of the citizens of each state, to promote the protection of the environment against the misuse of pesticides, and to promote a more professional standard for the structural pest control industry, by supporting the effective and fair regulation of the pest control industry. We bring regulatory officials together from across the country to share information, develop new ideas and approaches to regulation, and work together on national issues.

As current President of the Association, I have had the opportunity to work with Lisa Gervase, Executive Director of the Arizona Structural Pest Control Commission in all of these areas. Lisa, and the Commission, have a reputation for diligence, integrity, and dedication to the ideals of protecting the public and the environment through fair and effective regulation of the structural pest control industry. In her work with the Association, as a member of the Board of Directors, and as Chair of the Termite Control Discussion Group, Lisa has shown dedication, skill, and innovation in the regulation of pest control.

The most pertinent example of this is the commendable work Lisa has done in the creation and development of the concept of performance based enforcement. She has quite ably taken a nascent idea of a new way to regulate the termite protection segment of the structural pest control industry based on the results of the protection offered to consumers, and developed a workable set of guidelines and documents that can be used to initiate a pilot project of this new concept. Several states have expressed interest in trying this out as a way to more effectively use limited resources to improve the protection of consumers from fraudulent pest control practices.

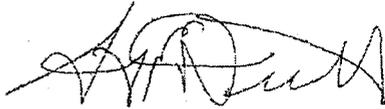
The importance of fair and effective regulation of the pest control industry is difficult to overstate. Structural pest control practitioners apply pesticides and perform other pest control activities in people's homes, in their children's schools and day care centers, in hospitals and nursing homes. Pest control practitioners are responsible for protecting the economic value of the major property investment of people's homes against termite damage, and increasingly, protecting people against disease carrying mosquitoes and ticks.

If not properly regulated, pest control services that people have come to expect would not be performed properly. Fraud and deceptive practices would increase, and applications of pesticides that are unsafe for both the public and pest control employees would become more common. Inevitably, without effective regulation, poorly performed pest control would become the norm and the incidence of diseases and economic damage that are the reason for pest control would increase.

Because of the importance of pest control, good regulation – defined as impartial, transparent, predictable, and sufficient to correct the behavior of the industry – is absolutely crucial. A professional staff of regulators, with ample experience, led by a knowledgeable, innovative director with high standards of integrity and a strong commitment to public service is essential for this to occur. It is evident that the current Commission, with the demonstrated leadership of Director Gervase, fulfills that need.

Please contact me if I can provide more information.

Sincerely,



Steven Dwinell
President
Association of Structural Pest Control Regulatory Officials
Assistant Director
Division of Agricultural Environmental Services
Florida Department of Agriculture and Consumer Services

cc: ASPCRO Board of Directors

Leah Birk

From: Dan Sleezer [dsleezer@sosexterminating.com]
Sent: Thursday, September 20, 2007 1:01 PM
To: Leah Birk
Subject: RE: Spam:Arizona Structural Pest Control Commission Sunset Review

September 20, 2007

Leah Birk,

I am Dan Sleezer, General Manager for S.O.S. Exterminating. We are a large termite and pest control company with over \$20 million in annual revenues in Arizona. Our pretreat division is our largest revenue division, and we serve virtually every large builder in Arizona. I am writing in support of continuing the SPCC and believe that the industry is well served by this current commission and staff.

I have been General Manager of S.O.S. Exterminating since 2001, and have had many opportunities to work with the commission on a multitude of issues during my tenure. The staff have been very helpful, even during times when our company was "out of compliance", and I have nothing but compliments for them. While there tends to be a natural schism between almost any industry and its' regulators, I am of the opinion that the SPCC works well with the Arizona pest control industry. My experiences have been positive and I would be remiss not to say so. Without the SPCC and its staff the pretreat industry would be in complete pandemonium, and the public would suffer grave consequences.

Please don't hesitate to contact me if I may be of assistance or provide further information.

Sincerely,

Dan Sleezer
S.O.S. Exterminating
480-497-1500

From: Leah Birk [mailto:lbirk@azleg.gov]
Sent: Thursday, September 20, 2007 10:15 AM
To: ken@tucsonpest.com; demorest.allen@epa.gov; dwinels@doacs.state.fl.us; sbrietwei@rollins.com; ngoldenberg@terminix.com; Dan Sleezer; mkatz@west-ext.com; chris@generalexterminating.com; Marcia Unell
Subject: Spam:Arizona Structural Pest Control Commission Sunset Review

Please find attached the memo regarding the sunset review of the Arizona Structural Pest Control Commission. The Committee of Reference that will conduct the sunset review would appreciate any input that you are able to provide. Please let me know if you have any questions. Thank you.

Leah M. Birk

Senate Research Analyst, Commerce and Economic Development Committee
1700 W. Washington
Phoenix, AZ 85007
(602) 926-3171 (phone)
(602) 417-3216 (fax)

<<request to interested parties.doc>>

9/20/2007

D. Jay Ryan
Attorney at Law

4150 West Northern Avenue
Phoenix, Arizona 85051
Voice (623) 937-3737
Fax (623) 937-2189

Sen. Jeff
Thank you
D.J.R.

September 12, 2007

To: Legislative Committee of Reference

Re: Structural Pest Control Commission / Sunset Review

Dear, Senate and House Members:

The undersigned is not a registered lobbyist, but I am an Attorney practicing in Arizona since 1968. During these last 39 years I have had occasion to interface with the Commission in different capacities. Early-on as an Assistant Attorney General; later, briefly, as a Hearing Officer for the Commission and more recently as Counsel for companies and individuals licensed by the Commission.

During that time I have seen and participated in major improvements in the operation of the Commission. Under the tenure of Executive Director Lisa Gervase, the statutes and rules have been updated with the input of the Industry and others who appear before the Commission. Last year there were multiple public meetings on how to improve and revise the rules to address everyone's concerns. Those meetings were well attended by both the large and small firms, as well as attorneys who practice before the Commission.

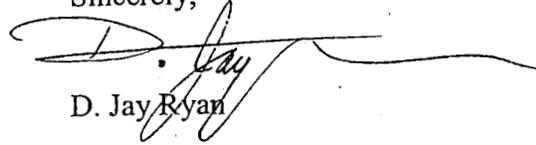
Last, but certainly not least, the staff has been reorganized and become more efficient in the use of its time and resources. Ms. Gervase knows the Commission well, having previously been its Assistant Attorney General, Counsel for licensees and prior her appointment as Director, an Administrative Law Judge (ALJ) for the Commission. Her tenure as Director, combined with new Commissioners, revised Rules and Statutes, has dramatically improved the image of the Commission locally and nationally.

2.

During the 80's and the 90's I participated in several Sunset Reviews on behalf of the Arizona State Board of Accountancy. In my opinion the continuation of the Structural Pest Control Commission is no less important and equally beneficial to the citizens of Arizona.

Thank you for taking time to consider the foregoing in your deliberations.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Jay Ryan", with a long horizontal flourish extending to the right.

D. Jay Ryan

Copy: Lisa Gervase Esq.

ARIZONA STATE LEGISLATURE

SENATE COMMERCE AND ECONOMIC DEVELOPMENT AND HOUSE COMMERCE COMMITTEE OF REFERENCE

Minutes of the Meeting
Tuesday, October 30, 2007
2:30 P.M., House Hearing Room 3

Members Present:

Senator Barbara Leff, Co-Chair
Senator Pamela Gorman
Senator Richard Miranda
Senator Jay Tibshraeny

Representative Rich Crandall, Co-Chair
Representative Mark DeSimone
Representative Kirk Adams
Representative Robert Meza
Representative Michele Reagan

Members Absent:

Senator Ken Chevront

Staff:

Leah Birk, Senate Commerce Analyst
Justin Weaver, Senate Finance Assistant Analyst
Diana O'Dell, House Commerce Analyst
Maureen P. Kane, House Democratic Counsel

Co-Chairman Leff called the meeting to order at 2:26 p.m. and attendance was taken.

Sunset Review of Arizona Structural Pest Control Commission Presentation by Auditor General

Dale Chapman, Performance Audit Manager, Arizona Auditor General's Office, distributed "Performance Audit and Sunset Review Arizona Structural Pest Control Commission" (Attachment A) and a copy of his PowerPoint presentation "Arizona Structural Pest Control Commission" (Attachment B). He explained the responsibilities of the Commission and how it is set up. In addition, Mr. Chapman explained the findings of the audit and recommendations by his office.

Representative Crandall distributed "Structural Pest Control Commission Sunset Hearing-October 30, 2007" (Attachment C) and conveyed that it contains additional information pertinent to the subject of the hearing.

Response by Structural Pest Control Commission

Jack Root, Interim Executive Director, Arizona Structural Pest Control Commission (ASPCC), distributed "Arizona Structural Pest Control Commission sunset Factors 2007" (Attachment D) and explained the Commission's response to the Auditor General's Report.

Public Testimony

Jennifer Perkins, Staff Attorney, Institute for Justice Arizona Chapter, conveyed why in her opinion the ASPCC should be discontinued.

Ken Fredrick, President, Arizona Pest Professional Organization (AZPPO), informed the Committee that with a few improvements he supports continuing the ASPCC.

Doug Wyly, General Manager, Arizona Exterminating Inc., explained why he feels the SPCC should continue, but under new direction.

Robert Hartley, Vice President of Technical Operations, Truly Nolan of America, communicated why he thinks the Commission is the best in the Country and should continue.

Phyllis Farenga, self, reported that a few independent pest control companies requested she explain how wrongly the Commission is being run and that it should be abolished.

Henry Schneiker, self, expressed why he thinks the SPCC should be disbanded.

Ray Sardociaski, self, explained why the Commission does not work properly and should be disbanded.

Richard Nelson, Warrior's Pest Control, informed the Committee that his company is under investigation. Some of the complaints he hears from small businesses lead him to come speak.

Jack McClure, Chemtech Supply, requested that the Commission continue as an independent agency with a sunset in 10 years.

Gavin Gallifant, National Environmental AZPPO, expressed that the Commission should continue and that any problems can be fixed.

Gene Harrington, National Pest Management Association, revealed why he supports the continuation of the SPCC.

Discussion

The Committee further discussed the issues at hand.

Recommendations by the Committee of Reference

Senator Miranda moved that the Committee of Reference recommend to the Legislature that the Arizona Structural Pest Control Commission be continued for one year, until July 1, 2009, and that the legislative Committee of Reference conduct the next sunset review of the Structural Pest Control Commission.

Committee discussion continued.

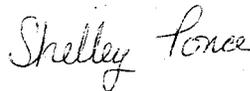
Representative Crandall moved the following Substitute motion:

That the Committee of Reference recommend to the full Legislature that the Structural Pest Control Commission be terminated, and that any related statutes be repealed by bill, if necessary. The motion PASSED by hand vote of 5 ayes and 3 nays.

Attached is a record of the individuals who registered their position on the recommendation (Attachment E).

There being no further business, the meeting was adjourned at 4:15 p.m.

Respectfully submitted,



Shelley Ponce
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)



Arizona Structural Pest Control Commission

REPORT HIGHLIGHTS PERFORMANCE AUDIT

Subject

The Arizona Structural Pest Control Commission was established in 1988 to protect the public from chemical harm and the harm caused by inadequate or improper structural pest control. The Commission licenses and regulates pest control businesses and applicators.

Our Conclusion

The Commission appropriately investigated most inquiries and complaints, but should improve investigation timeliness and develop policies for violations its staff handle. The Commission should ensure that all companies are inspected at least every 2 years, and that additional inspections are selected based on recently developed guidelines. The Commission should also continue efforts to improve its information management systems.



2007

August • Report No. 07 – 05

Commission should improve inquiry and complaint processing

By law, the Commission must investigate all potential violations of statute or administrative rule by its licensees.

Licensees as of January 2007

1,006	Pesticide businesses
6,995	Pesticide applicators
1,217	Qualifying parties (persons responsible for supervising applicators)

These investigations take two forms: inquiries and complaints.

Inquiries—The Commission receives "inquiries" from the public or staff, which provide information about possible statute or rule violations. Staff investigate these inquiries to initially determine (1) if the Commission has jurisdiction, and (2) whether a violation occurred. These investigations typically involve interviewing the person who initiated the inquiry, the licensee, and others; reviewing documents; and possibly conducting an inspection. If there is no basis for the inquiry or the Commission has no jurisdiction, it is dismissed. Dismissed inquiries are not reported to the public, and the files are destroyed after 6 months.

Complaints—If the inquiry investigation substantiates a violation that is not minor in nature, then the inquiry becomes a complaint. The licensee is notified of the complaint and asked to respond in writing to the allegations. Staff also conduct further investigation into the matter.



Source: The Arizona Structural Pest Control Commission

Information the Commission or staff receives may also begin as a complaint, such as when violations are discovered during an inspection.

The Commission opened 176 inquiries and 72 complaints in calendar year 2006.

Investigations adequate—We found most inquiries and complaints that auditors reviewed are adequately investigated. Commission staff performed the necessary investigative steps, including interviewing the complainants, licensees, and witnesses; collecting sufficient evidence; and writing a detailed investigative report.

When an investigation substantiates a violation, the Commission may take one or more disciplinary actions.

Disciplinary Statistics for Federal Fiscal Year 2006

26	Licenses revoked
21	Licenses suspended
5	Licenses placed on probation
66	Civil penalties
92	Administrative warnings
7	Cease-and-desist orders
29	Other—Includes requiring continuing education and/or reporting to the Commission

Investigative process not timely—Although the Commission's investigations are adequate, they do not meet the Commission's goals for timeliness. The Commission prescribes that inquiries be investigated within 60 days, complaints be investigated and adjudicated within 180 days, and inquiries that become complaints be investigated and adjudicated within 240 days.

<u>Time frame goals</u>	<u>Number meeting goal</u>
Inquiry—60 days	15 of 44 sampled
Complaint—180 days	11 of 19 sampled
Combined—240 days	8 of 19 sampled

Various factors influence untimely investigations. These include:

- **Lack of investigative time frames**—Time frames have not been established for the different steps in the investigative process. Such time frames could help prevent cases from sitting for long periods of time.
- **Combined inquiry/complaint completion goal too long**—We also found that allowing 240 days to complete an inquiry that becomes a complaint is too long. For several complaints auditors reviewed, most of the investigative work was actually completed during the inquiry process. Therefore, the combined process should still be completed in 180 days.

Recommendations

The Commission should:

- Establish internal time frames for the steps in the investigative process.
- Adopt a 180-day investigation and adjudication time frame for inquiries becoming complaints.
- Improve quality of inquiry and complaint databases.
- Review and prioritize investigator responsibilities.
- Develop and implement policies regarding inquiry violations that its staff handle.
- Develop and implement recordkeeping procedures for violations resolved by staff.

- **Failure to monitor progress**—Not all needed information on how a case is progressing is entered into the databases. Instead, some cases are closed and purged before the information is entered, and some information is not entered until after the case is completed.
- **Additional staff duties**—In addition to inquiry and complaint investigations, investigators spend an estimated 45 percent of their time conducting inspections.

Policies needed for staffs handling of violations—The Commission can better handle substantiated violations. The Commission has delegated to its staff the authority to close or remediate inquiries with minor violations. In a few instances, staff have remedied an inquiry where a violation was substantiated without appropriately documenting the remedial actions taken by staff and/or the licensee. For instance, in the case of an apartment complex employee who applied pesticide without a license, the staff educated those involved that a license was necessary. However, the file does not have any documentation of the action taken.

To improve how substantiated violations are handled, the Commission should:

- Establish and implement policies regarding violations its staff can handle.
- Establish and implement procedures for documenting corrective actions.

Commission should better monitor inspection process

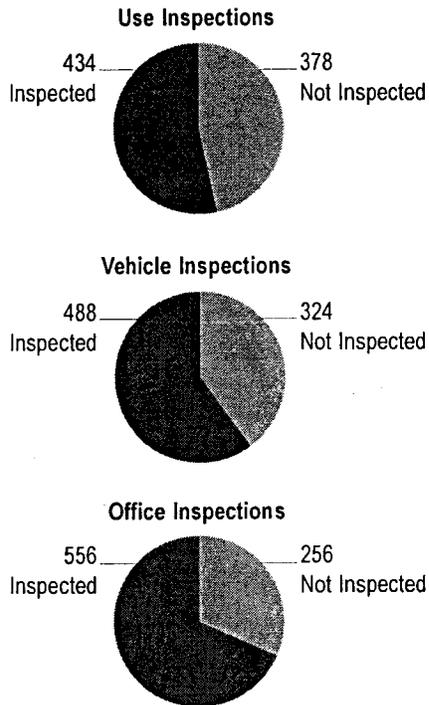
Inspections protect the public by helping to ensure that licensees properly and safely use and apply dangerous pesticides. Inspections include:

- **Use inspections**—Assess the proper and safe application of pesticides, including inspections of termite treatment applications that involve a review of information recorded on a tag at the application site.
- **Vehicle inspections**—Assess whether licensee maintains safety equipment and adequately stores pesticide on vehicles.
- **Office inspections**—Determine whether the licensee maintains required records.

Many companies not inspected—Companies should receive each of these inspections at least once every 2 years. However, from July 1, 2004 through June 30, 2006, the Commission did not meet its inspection goals, and many of the 812 companies licensed during this time did not receive inspections.

Other companies received multiple inspections—Although 138 licensees received no inspections, some received multiple inspections during fiscal years 2005 and 2006. For example, 5 companies, 3

**Licensed Pest Control
Company Inspections**
Fiscal Years 2005 and 2006



of which have both a main and branch offices, received more than 50 use inspections each, including tag monitors. One of these companies received 156 use inspections during this time. According to the Commission, this is because some are large companies that are involved in termite control, which is an area that receives more consumer complaints. However, we noted that some termite control companies did not receive any use inspections during this time.

The disparities in inspections appear to result from the Commission's not actively monitoring the numbers and types of inspections its inspectors are performing. For example, the Commission reported conducting 4,888 inspections during fiscal years 2005 and 2006. This was more than twice the number of inspections needed to meet its goal of

conducting a use, vehicle, and office inspection of all 812 companies licensed during this time.

Revised inspection approach—During the course of the audit, the Commission revised its inspection plan. It still requires each company to receive all three types of inspections at least once every 2 years. However, the revised inspection plan now provides more guidance and direction for how any additional inspections should be distributed among licensees. The plan allocates the additional inspections based on the type and volume of pest control that companies are performing and establishes monthly goals for each inspector.

In order to ensure that all companies receive the minimum number of required inspections, the Commission should ensure that supervisors follow procedures established in January 2007 for monitoring inspections.

Improve guidance for inspectors—Although the Commission has developed an inspection manual, inspectors do not use it because it has been in revision. The Commission has also provided inspectors with inspection forms, but these forms do not provide sufficient guidance for performing inspections.

Ensure violations are corrected—The Commission requires that licensees correct violations detected by inspections. However, the Commission has not ensured that licensees provide documentation of corrective actions in all cases. Therefore, the Commission should require its staff to ensure that licensees have taken corrective action. This may include follow-up inspections where necessary.



Source: The Arizona Structural Pest Control Commission

Recommendations

The Commission should:

- Continually monitor inspections and inspectors' compliance with the inspection plan.
- Provide better inspection guidance to its inspectors.
- Require staff to follow up on inspections that identified violations.

Commission should continue improving information management

The Commission uses various databases to track licensing, complaints, inquiries, inspections, and termite action registration forms (TARFs). However, certain impediments limit commission management's access to database information. For example:

- The inquiry database contains inaccurate information, and the inspections database does not contain all completed inspections.
- Data is not easily accessible, and standard management reports cannot be readily produced.
- Information on how the databases function and can be used is insufficient.

These limitations reduce commission management's ability to monitor the timeliness of investigations, to review and analyze information regarding Commission functions, and to provide timely information to the public.

The Commission has taken steps to improve information management. It has only two IT staff, but has received authorization to hire an additional IT person and retain a consultant to provide customer service, maintain IT systems, and create database documentation. It is also engaged in identifying the IT needs of its staff.

TO OBTAIN MORE INFORMATION

A copy of the full report can be obtained by calling
(602) 553-0333



or by visiting
our Web site at:
www.azauditor.gov

Contact person for
this report:
Dale Chapman

Recommendations

The Commission should continue efforts to improve the management of its IT resources including:

- Ensuring the accuracy of the data in its databases.
- Developing needed management reporting.
- Addressing insufficient database documentation.