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August 2, 2007

Ms. Debbie Davenport
Auditor General
State of Arizona Office of the Auditor General
2910 N. 44th St., Ste. 410
Phoenix, AZ 85018

Re: Arizona Structural Pest Control Commission Performance Audit and Sunset Review
Response to Revised Preliminary Report Draft

Dear Ms. Davenport:

Thank you for conducting the performance audit and sunset review of the Arizona Structural Pest Control Commission (SPCC). The SPCC agrees to the three findings of the Auditor General and will implement the audit recommendations as stated in the Findings and Recommendations section of the enclosed outline.

The SPCC appreciates the favorable overview and positive evaluation of the SPCC and welcomes the Auditor General's recommendations to continue improving education, training, licensing, compliance assistance, and enforcement activities to maintain the integrity and professionalism of the Arizona pest management industry; and providing information and assistance to the public.

The audit team conducted an extremely thorough and detailed performance audit and sunset review, from when it began on May 4, 2006 through receiving the preliminary draft report on June 12, 2007. The SPCC very much appreciates the professionalism and communication exhibited by the Auditor General's team of auditors, supervisors and managers, including the Auditor General's information technology, budget and legal professionals.

There have been many significant law, rule, programmatic and operational improvements in the past four to five years, which has been a period of transition and progress for the SPCC and the Industry. We look forward to continuing this progress with the useful recommendations of the Auditor General.

Sincerely,

Lisa Gervase
Executive Director

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I. ARIZONA STRUCTURAL PEST CONTROL COMMISSION'S PROGRESS

- A. Law Changes:** The SPCC implemented substantial law changes from the 2003 Legislative Session that became effective in September 2003. This required making *changes to many SPCC operations and procedures*, and providing *outreach* to the pest management industry via snail mail and web site notices, and *educational seminars*. The SPCC also conducted similar outreach efforts for law changes that occurred in 2004 (pertaining to record retention and termite action reporting) and 2005 (pertaining to joint responsibility of supervising licensees). In the 2006 Legislative Session, the SPCC worked with stakeholders to effect law changes pertaining to a weed control licensing exemption, a utility worker licensing exemption, and notices posted before pesticide applications at childcare facilities. The SPCC again made operational and procedural changes to implement these law changes, including being responsible for inspections and investigations pertaining to pesticide applications at child care facilities, and providing educational outreach to childcare facilities and the pest management industry.
- B. Rule Changes:** After an intermittent ten-year effort to promulgate rule changes to its 1992 rules, the SPCC focused an enormous amount of staff time from 2004-2006 working on rule changes, resulting in a complete set of *new rules that became effective in April 2007*.
- C. Customer Service:** The SPCC provides daily education to consumers and industry members via information and notices on its web site, and through its Customer Service Representative at the front desk, and Inspector of the Day. The 11 inspectors in the field also provide daily education when they encounter consumer or industry questions.
- 1. Diverse staff:** The SPCC enjoys a staff that varies in ages, gender and race. This better enables the agency to effectively communicate with the diverse Arizona population that it serves.
 - a) One or more staff members are bi-lingual:** The SPCC has staff members that are fluent in languages other than English (Spanish, Chinese, and Hindi); and two staff members that are conversant in American Sign Language.
 - b) Calls answered by trained staff:** The SPCC has a Customer Service Representative trained to answer most incoming questions, and handle all over-the-counter transactions. The SPCC also has an Inspector of the Day available to answer technical consumer and industry questions and respond to public information requests.
 - 2. Website is user friendly:** In March 2007, the SPCC launched a new web site (www.sb.state.az.us), with the approval of the Government Information Technology Agency. The web site provides all information that a consumer or industry member would need about the SPCC and pest management issues.

The following items are among the *many informative notices* on the SPCC web site for consumers:

- [Avian Flu](#): Notice about spread of Avian Influenza Viruses among Birds
- [Hanta Virus](#): Notice about Hanta Virus
- [Mosquitoes](#): Mosquito Misting System Important Information
- [Mosquitoes](#): West Nile Virus Information
- [Mosquitoes](#): West Nile Virus - Notice about Control
- [Pesticide Health and Safety](#): Click here for pesticide health and safety information
- [Public Information Request](#): Click here for the form to request public information from the SPCC
- [Roof Rats](#): Notice about control
- Termites: Click below for termite related information
 - [Inspections](#): Click here to know about Wood-Destroying Insect Inspection Reports
 - [Pretreatments and Homeowners](#): Homebuyers guide to Termite Treatments made before or during construction

- [Pretreatments and Realtors](#): Realtors guide to Termite Treatments made before or during construction
- [Reoccurrence](#): Why do I still have Termites?

There are many informative notices on the web site for industry members, including postings of the mailed notices that have been sent at least once a year. The notices are at <http://www.sb.state.az.us/Notices.php>

3. Developed forms, checklists, tracking systems and procedures to increase efficiency, streamline operations and ensure accuracy and completeness: The SPCC updated its inspection and license application forms, inquiry and complaint processing checklists and flowchart, inquiry and complaint database tracking. The SPCC amended all of its legal notices to incorporate required language, created a Complaint Process Notice ([ComplaintProcessSummary.pdf](#)) to inform the public and industry about the complaint process, and instituted a two-month turn-around time to process all Orders issued after every Commission meeting.

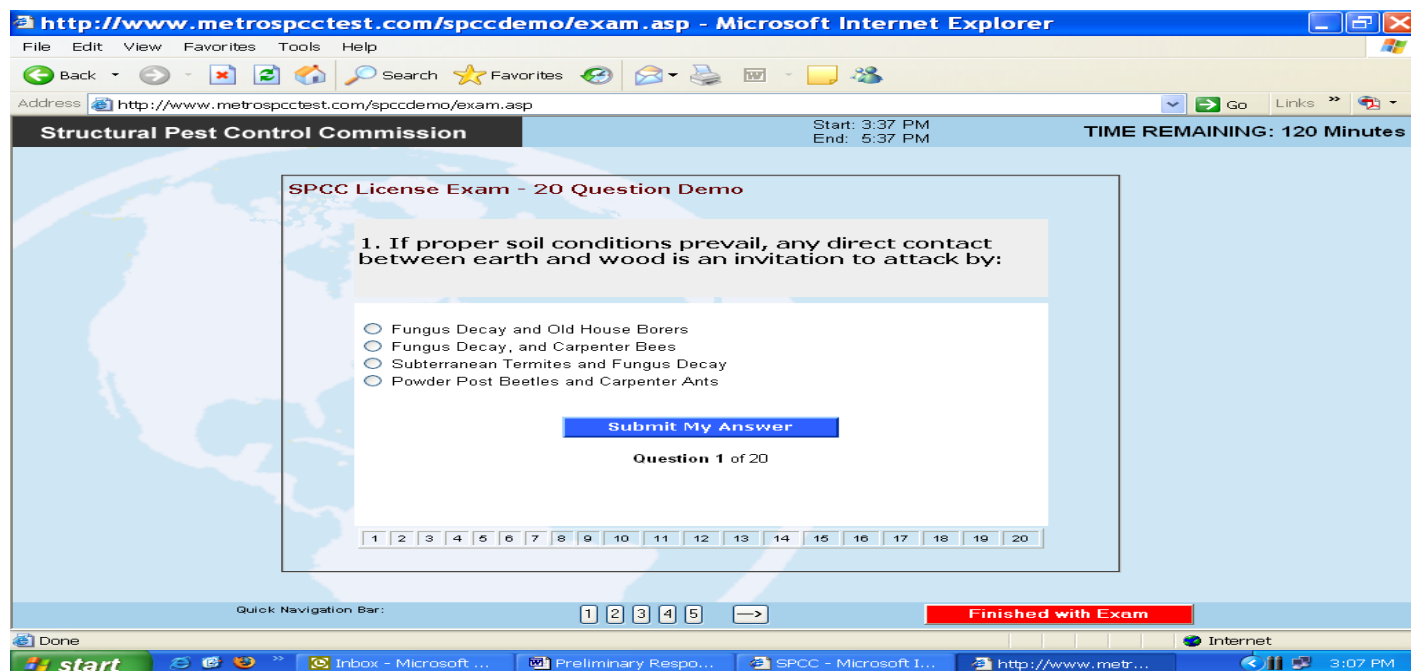
4. MyAccount: An on-line system to update contact information, print licenses and renewal forms: In June 2007, the SPCC added this feature to its web site to enable licensees to update routine information and obtain renewal forms and licenses, in a manner that is much more efficient for licensees and the SPCC.

D. Licensing: The SPCC has about 10,000 Business, Qualifying Party and Applicator licensees. This is about a **60% increase in licensees over the past ten years**, without any increase in staffing. The status of all licensees can be found on the SPCC's website License Search (see menu item below)

1. Initial Licensure Training (ILT) Classes: Since 2003, the SPCC has held ILT classes about once a month throughout the state. People can email (ILT@sb.state.az.us) or call (480-ILT-SPCC) to register for classes. (See schedule at <http://www.sb.state.az.us/AppInitTraining.php>)

2. On-line application forms and Computer-Based Licensing Examinations: The SPCC issues three different licenses: Business, Qualifying Party, and Applicator. Qualifying Party and Applicator licenses may be issued in eight different categories of pest management. The SPCC administers 18 license examinations. Since June 2003, all examinations

have been administered via computer at six or seven sites throughout the state, Mondays through Saturdays. The SPCC's forms and step-by-step instructions are at [LicInfo](#). A 20-question sample Computer-Based Exam was posted to the SPCC website in January 2005, at www.metrospcctest.com/spccdemo (see below). A list of exam study materials that applicants may purchase at cost from the SPCC is on-line at [BookList.pdf](#).



The SPCC also implemented a license application and testing process and created a license examination for a new fungi inspection license category that became effective in 2004. In 2005, the SPCC began reviewing and editing license exams and study materials. This is a significant project and continues to be a work-in-progress, as other projects have, unfortunately, taken priority.

- 3. Continuing Education Classes:** To help licensees comply with their annual C.E. requirement and provide information about laws, rules, record keeping requirements, safe practices, and other responsibilities, the SPCC conducts between 7 and 10 all-day C.E. classes annually around the state. SPCC staff also participate in C.E. classes provided by many approved C.E. providers. The SPCC's C.E. schedule is on the website at [CETraining](#). Licensees can register via email at CEU@sb.state.az.us or 480-CEU-SPCC. Between 40 and 400 licensees attend the SPCC's C.E. classes, depending on the capacity of the training site.

The SPCC also provides licensees with the ability to search for approved C.E. courses, other than the SPCC-provided courses, on its web site, at <http://www.sb.state.az.us/CECourseSearch.php>.

- 4. On-Line Continuing Education Reporting Tool:** In early 2004, the SPCC instituted a system for C.E. providers to enter attendance via the SPCC website (<https://spccssl.sb.state.az.us/ContinuingEducation/CELogin.php?ckset=ok>). This eliminated the manual data-entry that previously had to be done by SPCC licensing staff for thousands of licensees at renewal time. By instituting electronic efficiencies, the SPCC has been able to better handle daily tasks and provide more customer service with limited resources without seeking more FTEs.
- 5. On-Line License Renewal (RenewEZ).** In May 2004, the SPCC began the first on-line license renewal process in Arizona (<http://www.sb.state.az.us/RenewEZ.php>). Over 7,000 Applicants renew their licenses in the Spring, and about 3,000 Businesses and Qualifying Parties renew their licenses in the Winter. By instituting more technological means of doing business, the SPCC has been able to avoid seeking additional FTEs, has been able to complete paperwork filing and complaint processing backlogs, send more than one renewal notice, and save the Industry money in renewal fees. In the 2005 renewal cycle alone, the SPCC saved business and qualifying party licensees about \$100,000 in late renewal fees by sending two or more renewal notices and having RenewEZ for procrastinators. The percentage of licensees who have renewed on-line has grown in only three years to about 75% usage.

6. Monitoring Program and Background Checks. In September 2005, the SPCC instituted a monitoring program for license applicants who otherwise may not qualify for licensure because of their backgrounds. Upon thoroughly researching their backgrounds and interviewing these applicants, for those who qualify, the SPCC grants licenses whereby once they pass the licensing exams, they are subject to regular monitoring by the SPCC for a period of time to ensure public protection. This allows people to enter an occupation to better themselves and provide additional work force to pest management companies. The SPCC's April 2007 rule changes facilitated the SPCC conducting more background checks on license applicants, to aid public protection.

7. Ensured Business Licensees have legally required financial responsibility. In mid-2005, the SPCC instituted a written procedure for ensuring that all business licensees had provided proof of legally required insurance or other form of financial responsibility. The law requires this for public protection. After conferring with the Arizona Department of Insurance, insurance experts, and other states, the SPCC also instituted a custom financial responsibility certificate in October 2005 so that the legal requirements were very clear and easy to determine. This editable certificate is on the website at [InsuranceCertificate.pdf](#) and has become a model for other states to use.

E. Compliance Assistance: To protect health, safety and the environment for Arizona consumers; the health and safety of licensees performing pest management services; and the financial health of pest management companies, the SPCC's philosophy is to seek voluntary compliance through education and information. When all companies are on a level-playing field, they are protected and consumers are protected. In addition to the daily education via answering consumer and industry questions, the ILT and C.E. classes, and the web site, the SPCC conducts routine compliance assistance inspections.

The SPCC has seen a reduction in investigations and complaints from about 450 in 2004, to about 300 in 2005, and about 250 in 2006. This is attributable to the SPCC's increase in education, information, and compliance inspections, and the industry's desire to be compliant.

1. Inspections: These include office inspections of businesses and branch offices, use inspections of licensees conducting pest management services, and vehicle inspections of vehicles used in providing pest management services. The 11 inspectors are assigned to geographical locations to conduct inspections. When conducting office inspections of business licensees, the Agency reviews paperwork such as licenses, treatment records, TARF records, labels, storage areas, etc. to ensure proper licensing, compliance with laws, rules, and labels. Use inspections are divided by the type of use, such as at a federal facility, school, healthcare facility, food handling establishment, general-use pesticide, restricted-use pesticide, weed control, termite control, fumigation, and turf and ornamental. During pesticide use inspections, inspectors monitor pesticide handling, mixing, loading, storage, disposal, and application. Use inspections are either unannounced or scheduled. The Commission conducts about 2,600 annual inspections. The Agency has a web-based inspection program, into which the inspectors data-enter all inspections, so that the Agency can track inspections.

2. Technical Assistance: The SPCC has an Inspector of the Day available to provide technical assistance to consumers and industry members who call the SPCC daily. The SPCC also provided an editable wood-destroying insect inspection form, fungi inspection form, treatment proposal outline, and school/childcare pesticide application notice on its web site to aid the industry members who perform these tasks.

3. Supplemental Education/Training Classes: Throughout the year, the SPCC staff make presentations at classes sponsored by other education providers, and provide educational classes in addition to its normal continuing education class schedule on specific topics (such as the new rules) when requested by industry members. In 2004-2006, the SPCC worked with the Arizona Registrar of Contractors (ROC) Consumer Advisory Network, a group of private and public leaders in the construction-related trades, to educate homeowners about their rights and responsibilities in working with pest management companies. Beginning in September 2007, the SPCC will be making presentations at the ROC's Industry Advisory Council, a group of construction trade associations, to inform builders about their responsibilities pertaining to termite pretreatments.

F. Regulation:

1. Inquiries: Discussed in the Findings and Recommendations section below.

- 2. Complaints:** In January 2005, the SPCC instituted a *written Complaint Process and Settlement Conference Process*. The Complaint Process is on the SPCC website. Both written procedures are mailed to Respondents and Consumers involved in a complaint, to keep them informed of what to expect as the SPCC processes a complaint. Additional accomplishments pertaining to Complaints are discussed in the Findings and Recommendations section below.
- 3. Old Complaints Completed:** In 2003, the Agency began finalizing Complaints that had not been fully processed. By early 2007, the SPCC completed processing of about *950 Complaints that were opened between 1989 and 2002*. Tasks involved in this clean-up project included pulling all Complaints from the file room and performing desk/office audits to ensure that all files were properly located. The files were then reviewed, entered into the Complaint tracking database, compliance with old Orders was pursued, and when the files were complete, they were closed. After obtaining compliance, files that were five or more years old were purged, with lists of these files created, and the documents shredded. A copy of the lists and the final Order from each file is currently being maintained in the file room. The Commission was able to *collect over \$100,000 in old civil penalties* (100% of which are transmitted to the State General Fund). In October 2004, the SPCC began sending cases for which civil penalties were unpaid to the Attorney General's Office for collections, and monitors the progress of the collections so that the SPCC can close out the cases. The SPCC currently has over *\$150,000 in old civil penalties for which the Attorney General's Office is seeking collections*.

Beginning in 2003, a new procedure was instituted to process Complaints from inception to closing. Complaints are tracked from date of filing to presentation at Commission meetings, to attempt to stay within the approximate six-month turn-around. Within a month after each Commission meeting, with few exceptions, the definitive legal document as ordered by the Commission is executed (Consent Agreement, Complaint and Notice of Hearing, etc.). Complaints that are sent to formal hearing are generally scheduled within 60 days of Commission vote.

G. State and National Leadership: The SPCC's current Executive Director (E.D.) began in February 2003, with a background in private law practice, public law practice, serving on two Arizona regulatory boards, and as an Administrative Law Judge. The E.D. became active nationally with pest management regulatory and industry issues to provide better service to Arizona consumers and professionals. This included attending the U.S. EPA's Pesticide Regulatory Education Programs (PREP) in mid-2003; speaking at a PREP course in 2004; and serving on termite treatment and inspector training committees of the Association of Structural Pest Control Regulatory Officials (ASPCRO) beginning in 2004. ASPCRO, a 51 year-old professional association comprised of the structural pest control regulatory officials of any of the fifty states, works closely with the National Pest Management Association (NPMA) and the U.S. EPA to provide technical, regulatory, legislative and education assistance to consumers and professionals. The E.D. was appointed to the ASPCRO Executive Board in 2005, was a presenter at the annual ASPCRO education conferences in 2005 and 2006, and is on the program for the 2007 conference. She also was a featured speaker at the NPMA's Legislative Day Professional Women in Pest Management Forum in February 2007. The E.D. currently is working with regulators and industry professionals from around the country to establish a performance-based enforcement pilot program, and improve pesticide label language.

II. FINDINGS AND RECOMMENDATIONS

FINDING 1 – Commission should improve inquiry and complaint processing

SPCC Response: The SPCC agrees with the Auditor General's finding. The SPCC adds that during the two-three year time frame within which inquiry and complaint files were reviewed (2004-2006), the *SPCC processed about 680 Inquiries and 340 Complaints*.

Recommendation 1. The Commission should *establish specific time frames for each phase of its investigative process*.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented the recommendation. A supervisory meeting is conducted weekly (currently every Tuesday at 1:00 p.m.) to review the status of all open Inquiries and Complaints. At the 45-day mark for all investigations, the supervisors determine how close an Inquiry is to being closed, having a corrective work order issued, or opening the matter as a complaint. The supervisory portion of the manual and the fields of the Supervisor Current Inquiry Investigation Report will be updated accordingly to reflect these tracking mechanisms. By the 60th day for Inquiries, the matter should have (1) a closing letter issued and a closed date noted in the database; (2) a corrective work order issued and be monitored for compliance and then a closed date noted in the database when compliance was verified in writing or by a follow-up inspection; or (3) the matter is opened as a Complaint. If the 60th day deadline is not met, the reason(s)

for the delay will be documented in the file. *As of July 30, 2007, the Management Inquiry Status Report has been created, to reflect the 45- and 60-day timeframes, and an “aging” column that reflects the number of days an inquiry has been open.*

By the 120th day for Complaints, the matter should be transmitted to the Regulatory Compliance Specialist for a final quality control (Q.C.) review and to prepare the matter for a Commission meeting agenda. At the 150-day mark, the Q.C. tasks should be completed. At the 165-day mark, the complaint should be ready for a Commission agenda by having a final file memo to the Commission prepared and a settlement conference (if any) conducted. By the 180th day, the Complaint should be on a Commission meeting agenda for Commission action to send a complaint to Formal Hearing at the Office of Administrative Hearings, Dismiss a complaint, accept a proposed Consent Agreement, or issue an Advisory Notice. *As of July 30, 2007, the Management Complaint Status Report has been created, to reflect the 120-, 150-, 165-, and 180-day timeframes, and an “aging” column that reflects the number of days a complaint has been open.*

Recommendation 2. The Commission should *establish a specific time frame within policy ensuring that the number of days from inquiry receipt to complaint adjudication is no longer than 180 days.*

SPCC Response: The SPCC agrees with the Auditor General’s finding, and will implement the recommendation in phases. The SPCC’s goal is 60 and 180 days for Inquiries and Complaints, respectively. The scope of a Complaint is broader than an Inquiry, requiring additional items to be investigated in a Complaint. There also are additional delays in processing a Complaint, such as: waiting almost a month for the Respondents to respond to the Complaint, waiting for lab results or advice from the EPA or Attorney General, conducting quality assurance reviews of the investigation and complaint file, contacting consumers and respondents regarding settlement options, preparing a settlement proposal and scheduling a settlement conference, and the delay between when a complaint is ready for a Commission agenda and the date of the upcoming Commission meeting. As stated by the Auditor General, a main impediment is staff resources. In December 2002, the SPCC had 11 inspector/investigators. By September 2006, only four of those 11 staff members were still inspector/investigators. As with any organization, these types of staffing changes occur for many reasons. For the SPCC, these reasons included two deaths, four resignations (three moved and one returned to private industry), and one retirement. Also, as with any organization, the SPCC has faced inspector/investigator staffing shortages due to long-term military leaves, long-term medical disabilities, and staff leaving after one week to one year for financial reasons. As of the writing of this report, the SPCC has 10 inspector/investigators.

Although investigators also perform numerous inspections, these inspections provide education and compliance assistance to the industry. These activities, with other outreach accomplished by the SPCC have decreased the number of inquiries and complaints over the past three years. This ultimately better protects the public and is a better use of industry and SPCC resources.

Regardless, the SPCC wants to meet the 180-day timeframe for processing all Complaints, including those that begin as Inquiries. Once the operational and database updates are implemented, and once the SPCC consistently is meeting its 60-day deadline for processing Inquiries, the SPCC will be better able to monitor Inquiries and Complaints and process them faster. *In one year from the published date of the audit report, the SPCC will formally evaluate its performance in meeting the 60 and 180-day deadlines for Inquires and Complaints, respectively. The SPCC will process Complaints that began as Inquiries within 210 days at that time. One year thereafter, the SPCC will conduct a second formal evaluation and will process Complaints that began as Inquiries within 180 days at that time.* For any Inquiries or Complaints that are not within these timeframes, the justification for any delay will be documented in the files.

Effective July 16, 2007, the SPCC amended its Compliance/Enforcement Division General Procedures (“Inspector Manual”) to include a policy about the above processing timeframes. As of July 30, 2007, the Management Complaint Status Report and Management Inquiry Status Report have been created to reflect the new timeframes and aging.

Recommendation 3. The Commission should *improve the quality of the information in its inquiry and complaint databases* by:

- a. Developing and implementing procedures directing staff to enter information on inquiry and complaint investigative activity in a timely and accurate manner and verifying the information’s accuracy; and
- b. Adding fields to the existing data entry form to include key investigative activities, such as documenting the date the inspector receives documentation, interviews a client, performs an inspection, or collects samples, as well as other important dates, such as when supervisors review the investigative reports.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented a different method of dealing with the finding. The Inspector of the Day or a Supervisor enters preliminary Inquiry information into the Inquiry database when an Inquiry is opened. Follow-up information is entered by a Supervisor. The Supervisors and Compliance/Enforcement Director are holding weekly meetings to review the status of the items in Recommendation 3(b) above, review the timeliness, determine if any are not on track and remedy the situation. When key investigative activities occur, they are documented in the hard complaint file. When a Supervisor enters the 45-day review date and the closing date, Inquiry information is reviewed and updated if necessary. Likewise, with the Complaint database, preliminary information is entered by the Inspector of the Day or a Supervisor when a Complaint is opened. Follow up information is entered by a Supervisor or Legal Assistant. The fields of the database will be updated to reflect key status activities, such as the 45-day and 60-day tasks for Inquiries, and the 120-day and 165-day tasks for Complaints. The status of Inquiries and Complaints is reviewed by the Supervisors weekly, documentation of key investigative tasks is documented in the report and hard file, and drafts of investigative reports are reviewed at various times during Complaint processing. To create additional data entry requirements when other investigative or supervisory tasks are performed would require administrative staff because neither the investigators nor the supervisors can handle additional administrative tasks without slowing down the process. A final information verification task for Complaints is done when a Legal Assistant enters closing information after a Complaint has been adjudicated. At that time, information is reviewed for accuracy and updated if necessary. *Between July 18-30, 2007, the SPCC updated its Compliance/Enforcement Division Manual to include Complaint Database Data Input instructions, Inquiry Database Data Input instructions, and Supervisor Duties Investigation Reviews; updated its Inquiry and Complaint checklists; and created new fields in its Inquiry and Complaint data-entry forms to implement this recommendation. The Supervisors will continue to enter status notes in the comments fields of the Inquiry and Complaint database, to run a Weekly Complaint Report and Weekly Inquiry Report.*

Recommendation 4. The Commission's *Executive Director should generate and review monthly management reports that track the progress in inquiry and complaint investigations* and ensures that the internal time frames of the investigative processes are met.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented the recommendation. *As of July 30, 2007, the Executive Director can generate and review monthly management reports from the Inquiry and Complaint database to track progress of the 45- and 60-day timeframes for Inquiries, and the 120-, 150-, 165- and 180-day timeframes for Complaints.*

Recommendation 5. The Commission should *ensure that it has sufficient staff resources to investigate complaints* by reviewing the responsibilities assigned to its investigators and other staff and prioritizing these responsibilities among its staff accordingly.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented the recommendation of reviewing and prioritizing responsibilities. *The SPCC has received Legislative approval in the 2007 Legislative Session to hire one additional inspector and is in the hiring process now.* Investigative staff have been assigned geographical areas and a certain number of inspections to conduct monthly. Investigations are assigned based on geographical area, investigator experience and investigator workload. Supervisors monitor inspection and investigative progress weekly for timeliness and quality. The SPCC has been able to investigate complaints. Given limited resources and staff changes that routinely occur, investigations may not always be processed by the 60- or 180-day deadlines, but they are properly processed.

Recommendation 6. After the Commission assesses its needs, it should determine whether it could meet its investigation and inspection responsibilities with existing staff or by taking other steps. If not, as appropriate, the *Commission should seek legislative approval for additional staff.*

SPCC Response: The SPCC agrees with the Auditor General's finding, and will implement the recommendation.

Recommendation 7. The Commission should *establish and implement policies* regarding:

- a. The types of *violations that would qualify as de minimis* and therefore can be appropriately remedied by its staff, and those violations that are considered more serious and should be addressed by the Commission; and
- b. The *definition of willful and repeated violations*, including such criteria as the number and frequency of occurrences that would require staff to forward violations to the Commission.

SPCC Response: The SPCC agrees with the Auditor General's finding, and will implement the recommendation. *A list of de minimis violations has been drafted (2/6/07), and a definition of willful and repeated violations is being drafted, with both being presented to the Commission by October 2007 for review/approval.*

Recommendation 8. The Commission should establish and implement *procedures requiring staff to document actions taken to address violations*, including such information as the nature of the violation, the statute or rule violated, an explanation of the corrective action required, and associated time frame for the licensee to comply.

Recommendation 9. The Commission should ensure that the licensee's *return to compliance is documented in the case file* for any cases in which staff remediate violations.

Recommendation 10. The Commission should *retain a record of inquiries with substantiated violations*, including documentation supporting the licensee's return to compliance.

SPCC Response to Recommendations 8, 9, and 10: The SPCC agrees with the Auditor General's finding, and has implemented the recommendations. This pertains to Inquiries where staff takes action to address violations rather than filing Complaints. Since the inception of the Inquiry process in late 2003, the procedure has been to document the nature of the violation and statute or rule violated in the investigative report. But, the procedure for documenting corrective action or providing education has been more informal. The SPCC has now implemented a procedure to issue a Corrective Work Order (CWO) for minor Inquiry violations, stating the corrective action required and a time frame within which to comply, and to document compliance. The database indicates whether a Corrective Work Order was issued for an Inquiry, and documentation of compliance is in the hard file. *As of July 31, 2007, the Compliance/Enforcement Division Manual has been updated to reflect the Inquiry Processing policy to issue a CWO for a violation listed on the list of de minimis violations. The CWO notes the nature of the violation, statute or rule violated, corrective action required and a deadline to comply. As of July 30, 2007, the Inquiry database input form has new fields to enter the CWO issued and compliance dates, and the Management Inquiry Status Report now reflects this information. The CWO information is entered to the Licensing database and the CWO is filed in the Inquiry file and the Licensee's License file. The Inquiry file is purged after six months, but the Inquiry Database, Licensing Database, and Licensee's License file contain CWO information indefinitely.*

FINDING 2. Commission needs to better monitor inspections

SPCC Response: The SPCC agrees with the Auditor General's finding, and clarifies the note about some companies receiving a high number of use inspections. The Auditor General indicated that five companies received over 50 use inspections in a two-year period and that one of these five received 156 use inspections in this time frame. These five companies have about 325 applicators, combined. The number of use inspections included inspections of applicators that work out of both main offices and branch offices for three of the five companies. Also, two-thirds of these inspections were pretreatment tag monitors. The use inspections (not tag monitors) for the two-year period are:

Business	Number of Use Inspections
Company 1 main office	21 inspections
Company 1 branch office	3 inspections
Company 2 main office	16 inspections
Company 2 branch office	3 inspections
Company 3 main office	31 inspections
Company 4 main office	28 inspections
Company 4 branch office	11 inspections
Company 4 branch office	4 inspections
Company 4 branch office	7 inspections
Company 4 branch office	3 inspections
Company 5 main office	13 inspections
Company 1 main office	21 inspections

Total: 140 use inspections of applicators working out of 11 offices in two years.

Recommendation 1. To ensure implementation of its revised inspection plan, the Commission should:

- a. Ensure that its *supervisors follow supervisory review and monitoring procedures established in January 2007* to help ensure that the distribution of inspections performed is appropriate, including that each licensee received at least one use, vehicle, and office inspection every 2 years.
- b. Establish procedures requiring its inspection *supervisors to generate monthly management reports* to track inspection activities; and
- c. Periodically *identify and make necessary changes* to its inspection plan based on the results of inspections or to reflect changes in its population of licensees.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented the recommendation. *The inspection database was updated on July 9, 2007 with expanded management and statistical reporting capabilities. Reports of non-use inspections, use-inspections are generated and reviewed at least monthly to ensure inspection goals are met, and to make any needed modifications. As of July 16, 2007, the Compliance/Enforcement Division General Procedures were updated to include the items in 1(a) and (b) above.*

Recommendation 2. To better guide its inspectors, the Commission should:

- a. *Complete its revisions to its inspection manual*, including incorporating revisions suggested from the training it held.
- b. *Implement the revised forms, policies, and procedures* once the inspection manual has been finalized; and
- c. *Ensure that all inspectors and supervisors are fully trained* on the inspection materials, including all policies and procedures.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has largely implemented the recommendation. *The SPCC held eight days of training after the new rules became effective in April 2007 (May 9, 10, 16, 23, 30 and 31, and June 27 and 28, 2007).* The SPCC is revising its inspection/investigation manual based on discussions during this intensive training, including all revised forms, policies and procedures. *The manual is scheduled to be completed by November 2007.* Each new inspector will review the tapes of this training, in addition to the other new-hire training that is provided. The SPCC inspection/investigative staff also will meet every Monday following each monthly Commission meeting to update training.

The SPCC's new inspector manual is consistent with current laws and rules. Given the number of substantive law and rule changes over the past three years, the SPCC was unable to update its former inspector manual to keep pace with these changes and inconsistencies until the new rules became effective in April 2007.

Recommendation 3. The Commission should *monitor inspectors' compliance* with the revised policies, procedures, and forms by requiring supervisors to periodically observe inspections and by frequently meeting with inspectors to ensure they understand the policies and procedures.

SPCC Response: The SPCC agrees with the Auditor General's finding, and has implemented the recommendation. The supervisors are in daily contact with the inspectors, in the field and in the office, to ensure that the policies and procedures are understood and followed. Supervisory review of an inspector's knowledge of statutes and rules, following inspection procedures, inquiry processing procedures and complaint processing procedures is documented in an inspector field evaluation. *As of July 18, 2007, the written procedures have been updated, and a professional development plan and inspector evaluations have been created to implement this recommendation.*

Recommendation 4. The Commission should *ensure that licensees take corrective actions* to address violations or noncompliance items by:

- a. Ensuring that its inspectors follow procedures established in February 2007 that specify the types of violations that require a follow-up visit; and
- b. Requiring inspectors to randomly select submitted notices of correction for verification.

SPCC Response: *The SPCC agrees with the Auditor General's finding, and will implement the recommendation.*

FINDING 3. Commission should further improve its information management systems

SPCC Response: The SPCC agrees with the Auditor General's finding.

The SPCC has an *Accounting database that has technical and end-user documentation, and full reporting capabilities via menu options.*

Recommendation 1. Once the Commission obtains the additional IT resources appropriated for fiscal year 2008 to create sufficient documentation for the commission databases, it should ensure that these documentation projects are completed in a timely manner.

SPCC Response: The SPCC agrees with the Auditor General’s finding, and will implement the recommendation. *As of July 2006, the SPCC has complete technical and user documentation for its accounting database.* Documentation will be done as possible for both technical users and end-users for the other databases. *The software code for the other databases is heavily commented so that a knowledgeable IT professional could understand and update the databases.* It would be more efficient to have technical documentation so that an IT professional did not have to rely on the software code. However, the SPCC used its limited IT resources, consisting of one IT staff member until two years ago, to keep up with daily tasks and to make significant IT accomplishments. The SPCC did not have the resources to create technical documentation for all of its databases, as indicated by the following list of how IT resources are used on a daily basis.

Activity	Usage Time
Customer service/support (External\Internal)	24% usage
Hardware/Software maintenance\Upgrades	18% usage
Trouble-shooting	13% usage
Programming	10% usage
SQL Database administration	8% usage
Network Administration	7% usage
Web maintenance/Updating	5% usage
Security	5% usage
Employee Training	3% usage
Custom report generating	3% usage
Research	2% usage
Documentation	2% usage

With only one IT person handling the above tasks, *the SPCC created a Licensing database to accommodate its complicated licensing structure (three licenses in eight categories), a TARF database and reporting system, and web site.* When creating its licensing database, the SPCC obtained pricing information to outsource this task that would have cost about \$100,000 at the outset. That cost did not include performing the continual modifications to the database that are necessary as laws, rules and procedures change. A simple custom licensing software and some database support would cost about \$250,000 today. At that cost, the SPCC chose to use its existing resources to create a custom database. That required forgoing some other IT tasks that were less of a priority.

The SPCC maintains the TARF database, provides and updates custom software provided free to the industry to submit TARFs, and provides related customer support. This saved the SPCC at least \$65,000 a year in data entry and paperwork costs.

The SPCC directly maintains and hosts its own web server for its dynamic and informative web site.

In July 2004, the SPCC also established a scanning and web-based retrieval system for Commissioners to obtain monthly Commission meeting materials, to eliminate the costly and time-consuming process of photocopying thousands of documents every month, and mailing binders of materials to Commissioners.

Also in 2004, the IT Director spent significant time working with an industry software provider to implement an interface between the SPCC’s TARF software program (CompuTAR) and a popular industry business management software, to better enable licensees to upload and submit TARFs to the SPCC.

In addition to *creating and maintaining the licensing, C.E. reporting, inspection, TARF, Commission materials on-line, and accounting databases, and the web site*, the SPCC created its own computer based testing system as a back-up system to the outside vendor's system.

In the 2007 Legislative Session, the SPCC received approval to hire a new I.T. FTE to help with programming and network tasks, and \$10,000 toward an I.T. contractor to help with documentation tasks.

Recommendation 2. The Commission should plan to develop needed *management-reporting capabilities* that do not require database integration by:

- a. *Monitoring the progress of the e-TARF and database integration projects* and determining when resources would become available to begin developing management reporting capabilities, and
- b. Developing plans for *creating needed reports* and identifying and allocating the necessary resources for doing so.

SPCC Response: The SPCC agrees with the Auditor General's finding, and *has implemented the recommendation pertaining to management reporting capabilities and reports as of July 31, 2007*. Management reporting capabilities are now available for the inspections, licensing, accounting, inquiry and complaint, and current TARF databases. The SPCC anticipates its *e-TARF project being implemented by the end of 2007. The database creation and integration projects should largely be completed by the end of 2008.*

Recommendation 3. To ensure the accuracy of data in its databases, the Commission should:

- a. Develop and implement *policies and procedures for data handling*, including data entry, and for testing the data that currently resides in the databases;
- b. *Compare database information to information contained in hardcopy files* and make any necessary changes to the databases; and
- c. *Concentrate on the information contained in the inquiry and complaint databases*, since there are strong indications that some data in those databases is unreliable.

SPCC Response: The SPCC agrees with the Auditor General's finding, and will implement the recommendation. The Inquiry and Complaint databases were not created by IT staff and were not intended to be used for independent reporting purposes. They were created only for general background information and as a starting point to pull files from which information was obtained in response to public records requests and reporting requirements. With limited staff, the need to rely on electronic databases has become more necessary. *With additional IT staff authorized by the Legislature, beginning in FY08, the SPCC will create a new Inquiry and Complaint database by the end of 2008.*

The SPCC has instituted the following procedures for data handling: The Inspector of the Day or a Supervisor enters preliminary information for all Inquiries and Complaints. A Supervisor or Director of Compliance/Enforcement data enters a closing date for all Inquiries. When doing so, they verify the accuracy of data with the file and make any necessary corrections. The Legal Assistant enters compliance and closing information into the Complaint database. When doing so, the accuracy of data with the file is verified and any necessary corrections are made.

Before migrating data into a new database, it will be validated for accuracy by comparing key data in a representative sample of files to the information in the current database.

Recommendation 4. Once the Commission has completely integrated the complaint database within its other databases and ensured that the complaint information is accurate, it should *upgrade its Web site to allow public users to obtain complaint history information* regarding licensed companies and individuals via the Internet.

SPCC Response: The SPCC agrees with the Auditor General's finding, and will implement the recommendation. The SPCC will create a new Complaint Tracking Database by the end of 2008 that will have web access to the public. Until then, *the SPCC created (on July 31, 2007) an alternative method for the public to search complaints adjudicated from January 2000 to the present from the SPCC web site search capability. From the search bar on the web site, a person can type the keyword "minutes" and the full name of a company or individual and retrieve a list of the minutes of meetings at which complaints involving that company or individual were adjudicated, if any. The Complaints menu item on the web site has instructions about how to perform this search. The minutes provide a summary of the complaint and any action taken.*

III SUNSET FACTORS

Factor 1: The objective and purpose in establishing the Commission. The SPCC agrees with the Auditor General's findings.

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 agrees with the Auditor General's findings and adds the following.

Beginning in early 2003, the SPCC tackled many large projects to improve operations. It reviewed, organized and purged hundreds of outdated hard files pertaining to licensing and enforcement tasks; it properly filed stacks of documents that it had not been able to previously file due to lack of space and personnel; and it created organized filing systems and procedures for all paper. The SPCC also spent a great deal of time implementing law changes that became effective in September 2003. It spent over two years completing the processing of about 950 complaints that had been opened between 1989-2002, spent a year working on omnibus law changes in anticipation of introducing them in the 2006 Legislative session, and spent 3 years amending the SPCC's 14 year-old rules. The SPCC also instituted computer-based licensing examinations, on-line license renewals, on-line C.E. reporting, and launched a new web site. These are in addition to the myriad of smaller projects and accomplishments that were instituted to operate within the bounds of the laws, rules, proper procedures, as efficiently and effectively as possible.

Licensing: The SPCC processes license applications for three primary licenses in eight different categories of pest management. It also is charged with issuing temporary qualifying party licenses, branch office registrations, and continuing education provider course approval. The license categories include 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. As of June 2007, the SPCC had about 7,604 Applicators, 1,303 Qualifying Parties, 1,083 Business Licensees, 155 Branch Offices, and 150 Approved C.E. providers.

Due to a quirk in law changes that became effective on September 17, 2003, the approval of Applicator licenses was not delegable to SPCC staff. The Commission historically has approved Qualifying Party and Business licenses. SPCC staff historically has approved Applicator licenses, except for applicants with a felony or moral turpitude misdemeanor conviction, which were reviewed by the Commission. The Commission, at its July 13, 2007 meeting, ratified all Applicator licenses that were issued from September 17, 2003 to present; and began reviewing for approval all current Applicator license applicants on a monthly basis.

Factor 3: The extent to which the Commission has operated within the public interest. The SPCC agrees with the Auditor General's findings and adds that the SPCC has obtained compliance with old complaint orders, including seeking collections of monetary penalties owed to the state, as stated in section I.F.3.

Factor 4: The extent to which rules the Commission adopted are consistent with the legislative mandate. The SPCC agrees with the Auditor General's findings and adds that, after many attempts to promulgate new rules, dating back to 1996, the SPCC created a first draft of new rules in January 2005 and persevered until the rules were adopted in April 2007.

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 agrees with the Auditor General's findings and adds that in mid-2006, the SPCC began posting informative notices on its web site rather than sending emails, due to the number of people requesting information. Also, the SPCC's outreach for input was so extensive that the outline summarizing outreach efforts is eight pages.

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

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.

Factor 8: The extent to which the Commission has addressed deficiencies in the enabling statutes, which prevent it from fulfilling its statutory mandate. The SPCC agrees with the Auditor General's findings for Factors 6, 7, and 8.

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. The SPCC agrees with the Auditor General's finding that statutory changes may not be 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. The SPCC agrees with the Auditor General’s findings. Terminating the Commission could significantly harm the public health, safety, welfare, and the environment. As found by the Auditor General, 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 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 Commission 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.

The Commission 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 another 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.

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).*

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.

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 agrees with the Auditor General's findings for Factors 11 and 12.